

## DELMAR CODE OF ORDINANCES

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**CODIFIED BY: EAST CENTRAL INTERGOVERNMENTAL ASSOCIATION  
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## TABLE OF CONTENTS

<b>TITLE I GENERAL PROVISIONS .....</b>	<b>1</b>
<b>CHAPTER 1 GENERAL PROVISIONS .....</b>	<b>1</b>
<b>CHAPTER 2 RIGHT OF ENTRY .....</b>	<b>4</b>
<b>CHAPTER 3 PENALTY.....</b>	<b>5</b>
<b>CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL.....</b>	<b>7</b>
<b>CHAPTER 5 MUNICIPAL INFRACTIONS .....</b>	<b>10</b>
<b>TITLE II POLICY AND ADMINISTRATION.....</b>	<b>13</b>
<b>CHAPTER 1 CITY CHARTER.....</b>	<b>13</b>
<b>CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL         OFFICERS.....</b>	<b>14</b>
<b>CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS .....</b>	<b>15</b>
<b>CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS .....</b>	<b>23</b>
<b>CHAPTER 5 CITY FINANCE.....</b>	<b>24</b>
<b>CHAPTER 6 POSTING.....</b>	<b>30</b>
<b>CHAPTER 7 CORPORATE SEAL .....</b>	<b>31</b>
<b>TITLE III COMMUNITY PROTECTION .....</b>	<b>32</b>
<b>CHAPTER 1 OFFENSES.....</b>	<b>32</b>
<b>CHAPTER 2 NUISANCES.....</b>	<b>41</b>
<b>CHAPTER 3 TRAFFIC CODE.....</b>	<b>47</b>
<b>CHAPTER 4 RESERVED.....</b>	<b>74</b>
<b>CHAPTER 5 FIRE PROTECTION .....</b>	<b>75</b>
<b>CHAPTER 6 CURFEW FOR MINORS .....</b>	<b>76</b>
<b>CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT         MERCHANTS .....</b>	<b>81</b>
<b>CHAPTER 8 CIGARETTE LICENSE .....</b>	<b>84</b>
<b>CHAPTER 9 ALCOHOLIC BEVERAGES .....</b>	<b>88</b>
<b>CHAPTER 10 JUNK AND ABANDONED VEHICLES .....</b>	<b>90</b>
<b>CHAPTER 11 DILAPIDATED BUILDINGS .....</b>	<b>97</b>
<b>TITLE IV MENTAL AND PHYSICAL HEALTH.....</b>	<b>100</b>
<b>CHAPTER 1 ANIMAL CONTROL .....</b>	<b>100</b>
<b>TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE.....</b>	<b>106</b>
<b>CHAPTER 1 LIBRARY SERVICES .....</b>	<b>106</b>
<b>TITLE VI PHYSICAL ENVIRONMENT .....</b>	<b>107</b>
<b>CHAPTER 1 MOBILE HOME REGULATION.....</b>	<b>107</b>
<b>CHAPTER 2 UTILITIES - SANITARY SYSTEM .....</b>	<b>113</b>
<b>CHAPTER 3 UTILITIES - WATER RULES AND REGULATIONS .....</b>	<b>127</b>
<b>CHAPTER 4 REGULATIONS GOVERNING MUNICIPAL WELL FUND         CHARGES AND SERVICES .....</b>	<b>133</b>
<b>CHAPTER 5 UTILITIES - REFUSE COLLECTION.....</b>	<b>134</b>

<b>CHAPTER 6 UTILITIES - BILLING CHARGES.....</b>	<b>137</b>
<b>CHAPTER 7 STREET CUTS AND EXCAVATIONS.....</b>	<b>145</b>
<b>CHAPTER 8 SUBDIVISION REGULATIONS.....</b>	<b>147</b>
<b>CHAPTER 9 SIDEWALK REGULATIONS .....</b>	<b>167</b>
<b>CHAPTER 10 RESTRICTED RESIDENCE DISTRICT .....</b>	<b>174</b>
<b>CHAPTER 11 FIRE DISTRICT .....</b>	<b>181</b>
<b>CHAPTER 12 DELMAR CABLE TELEVISION REGULATORY ORDINANCE.</b>	<b>182</b>
<b>CHAPTER 13 PUBLIC WATER SUPPLY WELLHEAD PROTECTION REGULATIONS .....</b>	<b>191</b>
<b>CHAPTER 1 CABLE FRANCHISE – RESERVED .....</b>	<b>200</b>
<b>CHAPTER 2 ELECTRIC FRANCHISE .....</b>	<b>201</b>
<b>CHAPTER 3 GAS FRANCHISE .....</b>	<b>204</b>

**TITLE I GENERAL PROVISIONS**

**CHAPTER 1 GENERAL PROVISIONS**

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

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

1. "Building" means any man-made structure permanently affixed to the ground.  
(Amended during codification)
2. "City" means the City of Delmar, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
3. "Clerk-treasurer" means Clerk-treasurer-Treasurer.
4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
6. "County" means the County of Clinton, Iowa;
7. "Fiscal Year" means July 1 to June 30.
8. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
9. "May" confers a power;
10. "Month" means a calendar month;
11. "Must" states a requirement;
12. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by

law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";

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

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

15. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;

16. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;

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

18. "Police Department" and "Sheriff's Department" includes the County Municipal Police or any other law enforcement officer.

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

20. "Property" includes real and personal property;

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

22. "Shall" imposes a duty;

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

24. "State" means the State of Iowa;

25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;

27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;

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

29. "Year" means a calendar year;

30. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

31. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

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

1. Gender. Any gender includes the other gender;

2. Singular and Plural. The singular number includes the plural and the plural includes the singular;

3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;

4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

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

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

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Delmar Municipal Code of 2004 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

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

## **TITLE I GENERAL PROVISIONS**

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

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

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

## TITLE I GENERAL PROVISIONS

### CHAPTER 3 PENALTY

1-3-1 General Penalty

1-3-2 Civil Penalty – Municipal Infraction

1-3-1 GENERAL PENALTY. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Ordinances of the City of Delmar is guilty of a misdemeanor. Any person convicted of a misdemeanor under the Ordinances of the City of Delmar shall be punished by a fine of not more than five hundred dollars, or by imprisonment not to exceed thirty days.

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

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

#### 1. Definitions.

a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Delmar, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Delmar, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Delmar.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

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

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

#### Schedule of Civil Penalties

First offense--Not more than five hundred dollars (\$500.00).

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

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



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

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

### 3. Civil Citations

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

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

c. The original of the citation shall be filed with the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the county treasurer.  
{(Code of Iowa, Sec. 364.22(4A(b)) (SF 434)  
(Amended during codification)

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

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

## TITLE I GENERAL PROVISIONS

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

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

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

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.

2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

#### 1-4-2 GENERAL.

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

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

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

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

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

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

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

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

treasurer."

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

1-4-5 CONDUCT OF HEARING.

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

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

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

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

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

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

a. To call and examine witnesses on any matter relevant to the issues of the hearing;

b. To introduce documentary and physical evidence;

c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

d. To impeach any witness regardless of which party first called the witness to testify;

e. To rebut the evidence against the party; and

f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

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

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

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

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

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

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

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

1-4-6 METHOD AND FORM OF DECISION.

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

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

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

## TITLE I GENERAL PROVISIONS

### CHAPTER 5 MUNICIPAL INFRACTIONS

1-5-1	Municipal Infraction	1-5-4	Civil Citations
1-5-2	Environmental Violation	1-5-5	Alternative Relief
1-5-3	Penalties	1-5-6	Criminal Penalties

1-5-1 MUNICIPAL INFRACTION. A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or serious misdemeanor, or a simple misdemeanor or under Chapter 687 through 747 of the Code of Iowa, is a municipal infraction punishable by civil penalty as provided herein.

(Code of Iowa, Sec. 364.22[3])

1-5-2 ENVIRONMENTAL VIOLATION. A municipal infraction which is violation of Chapter 455B of the Code of Iowa or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provision of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

(Code of Iowa, Sec. 364.22[1])

1. Violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

1-5-3 PENALTIES. A municipal infraction is punishable by the following civil penalties:

(Code of Iowa, Sec. 3a64.22[1])

1. Standard Civil Penalties.

a. First Offense – Not to exceed \$750.00

b. Each Repeat Offense – Not to exceed \$1,000.00

(Amended during codification)

Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

2. Special Civil Penalties.

a. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1000.00) for each day a violation exists or continues.

b. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1000.00) for each occurrence. However, an environmental violation is not subject if all of the following conditions are satisfied:

1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.

3) The violation does not continue in existence for more than eight (8) hours.

3. Schedule of Fines. The following schedule of fines for violation of certain sections of this Code of Ordinances is hereby established in order to standardize fines, save Court time and eliminate required Court appearances for such violations.

Chapter or Section Number	Charge	Scheduled Fine First Offense
3-2	Nuisance	\$100.00
3-2	(1) Offensive Smells	\$50.00
	(2) Filth or Noisome Substance	\$50.00
	(4) Water Pollution	\$100.00
	(5) Blocking Public or Private Ways	\$50.00
	(6) Billboards	\$50.00
	(7) Storing of Flammable Junk	\$100.00
	(8) Air Pollution	\$100.00
	(9) Weeds, Brush, Grass, Mowing	\$100.00
	(13) Effluent	\$100.00
	(14) Obstruct Drainage	\$50.00
	(15) Accumulations, Snow	\$100.00
	OTHER CONDITIONS:	
3-2	(1) Removal of Diseased Trees or Dead Wood	\$150.00
	(2) Removal, Repair or Dismantling of Dangerous Buildings or Structures	\$150.00
	(6) Cutting or Destruction of Weeds or Other Growth that Constitutes a Health, Safety or Fire Hazard	\$100.00
	JUNK AND JUNK VEHICLES	
3-10	(8) Junk and Junk Vehicles Prohibited	\$100.00
	ANIMAL PROTECTION AND CONTROL	
4-1	(8) Animal Neglect	\$100.00
4-1	(9) Livestock neglect	\$100.00
4-1	(10) Abandonment of Cats and Dogs	\$100.00
	Livestock	\$100.00

4-1	(3)	At Large Prohibited	\$50.00
4-1	(11)	Damage or Interference	\$50.00
4-1	(4)	Animal Nuisance	\$50.00
4-1	(7)	Vicious Dogs and Cats and Dangerous Animals	\$100.00
4-1	(12)	Rabies Vaccination	\$50.00
4-1	(13)	Owner's Duty	\$50.00

A second offense within a two-year period shall have a scheduled fine/civil penalty of twice the amount for a first offense. Third offenses within a two-year period will require a Court appearance.

Any violation of this Code not listed shall carry a scheduled fine/civil penalty of \$100.00 for a first offense.

1-5-4 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, by certified mail addressed to the defendant at defendant's last known address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(Code of Iowa, Sec. 364.22[4])

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

1-5-5 ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

(Code of Iowa, Sec. 364.22[8])

1-5-6 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provision of this Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec.364.22[11])

(Ord. 2002.1, Passed January 12, 2005)

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

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

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

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

(Code of Iowa, Sec. 372.4)

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

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for terms of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of two years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

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

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

2-2-2 APPOINTMENT OF OFFICERS. The City Council shall appoint the Clerk-treasurer-treasurer and Attorney unless otherwise provided by law or Ordinance.  
(Code of Iowa, Sec. 374.4(3))  
(Amended during 2004 codification)

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

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

2-2-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.  
(Code of Iowa, Sec. 64.13)

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

2-2-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.  
(Code of Iowa, Sec. 64.13)

2-2-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk-treasurer, except that the Clerk-treasurer's bond shall be filed with the Mayor.  
(Code of Iowa, Sec. 64.23)

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

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

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

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

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

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

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

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may sign, veto, or take no action on an Ordinance, amendment or resolution passed by the City Council. If the Mayor vetoes a measure, the Mayor must explain in writing the reason for such veto to the City Council members, if said action is taken within thirty days of the veto. If the Mayor takes no action on the measure, a resolution becomes effective fourteen (14) days after the date of passage and an ordinance or amendment becomes law when published, but not sooner than fourteen (14) days after the day of passage, unless a subsequent effective date is provided within the measure.

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

4. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or Ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law or Ordinance.

5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.

6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.

7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

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

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

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

12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing.

13. The Mayor shall make appropriate provision that duties of any absentee officer be carried on during the Mayor's absence.

14. Annually, the Mayor shall prepare and submit to the council an itemized budget of revenues and expenditures.

15. The Mayor may appoint an administrative assistant to assist in matters of administration and supervision.

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

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

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

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

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

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

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

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

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

public use.

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

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

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

(Code of Iowa, Sec. 384.20)

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

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

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

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

2-3-7 RESERVED FOR POWERS AND DUTIES OF THE POLICE CHIEF.

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

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

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

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

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

relating to said actions.

4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.

5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.

6. The City Attorney shall act as Attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or City Council.

7. The City Attorney shall not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

8. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.

9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

2-3-9 RESERVED FOR POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC UTILITIES.

2-3-10 RESERVED FOR POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC WORKS.



**Page 23 - Reserved for Future Use**

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

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

2-4-3 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$40.00 for each meeting of the City Council. Total of two meetings per year can be missed. (One per 6 month pay period.)

(Ord. passed July 2, 2003)  
(Amended during 2004 codification)

2-4-2 MAYOR. The Mayor shall receive a salary of \$940.00 per year semiannually.

(Ord. passed July 2, 2003)  
(Amended during 2004 codification)

2-4-3 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

the budget.

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

(Code of Iowa, Sec. 384.19)

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

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

be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

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

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

2-5-9 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only after issuance of a purchase order and no invoice shall be accepted unless authorized by such an order. Purchases not exceeding ten dollars (\$10.00) may be made by those officials authorized by the City Council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the Clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the Clerk. Purchases from petty cash shall be excepted.

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

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.20)

2-5-13 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk-treasurer shall set up in the accounting records but the Clerk-treasurer shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon

only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

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

**Page 30 – Reserved for Future Use**



**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 6 POSTING**

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

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

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

- Clinton National Bank                      301 Western
- Post Office                                      604 Vane St
- Casey's General Store                      502 Market St

The City Clerk-treasurer is hereby directed to promptly post notices of elections, Ordinances, and amendments, and to leave them so posted for not less than ten days after the first date of posting, and the City Clerk-treasurer shall note the first date of such posting on the official copy of the Ordinance and in the official Ordinance book immediately following the Ordinance.  
(Code of Iowa, Sec. 380.7)

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

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 7 CORPORATE SEAL**

2-7-1 Seal Established

2-7-2 Custody of Seal

2-7-1 SEAL ESTABLISHED. That a seal having around the outer edge “TOWN SEAL” and in the inner circle “DELMAR IOWA” is hereby established and declared to be the official seal of the City of Delmar, Iowa.

2-7-2 CUSTODY OF SEAL. That the Seal of the City of Delmar shall be and remain in the custody of the City Clerk-treasurer and shall be affixed by the City Clerk-treasurer to all ordinances passed by the Council which require the signatures of the Mayor or the City Clerk-treasurer, or either of them; and upon such notices, certificates and other authenticated paper as shall be required by law.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

presence of or in view of another, if the person knows or reasonably should know that such behavior would be offensive to a reasonable person.

### 3-1-4 STREETS.

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

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

3. Snow removal for streets, private property and sidewalks.

a. OPERATIONS COMMENCE. Snow removal operations will be commenced by the City upon the accumulation of two (2) inches or more of snow, or upon any accumulation of ice, on the public streets.

b. DUTY OF PROPERTY OWNER. It shall be the responsibility of the abutting property owner to promptly remove all accumulations of snow and/or ice from sidewalks.

c. FAILURE OF OWNER TO REMOVE. Any abutting property owner who permits accumulations of snow and/or ice to remaining upon the adjoining and abutting sidewalks for a period of twenty-four (24) hours after the cessation of the storm or cause of the accumulation shall be guilty of a misdemeanor.

d. REMOVAL BY CITY, ASSESSING COSTS. If accumulations of snow and/or ice are permitted to remain upon any sidewalk for a period of forty-eight (48) hours after the cessation of the storm or the cause of the accumulation, the City shall cause a Notice to be hung on the front door of the premises on the abutting property, which Notice shall give the person in possession of the abutting property twenty-four (24) hours to remove the accumulation of snow and/or ice from the sidewalk. If the sidewalks have not been cleared within twenty-four (24) hours of the posting of the Notice, then the City may clear the sidewalk and may spread salt or sand on the sidewalk.

If the person in possession of the abutting property fails to remove the accumulation of snow and/or ice from the adjoining and abutting sidewalk within twenty-four (24) hours of the posting of the Notice, and the City is required to remove the accumulations of snow and/or ice, then an administration fee of fifty dollars (\$50.00) and a material fee to be set by the City Council, shall be assessed against the owner of the abutting property. The fees assessed shall be collected in accordance with the procedure set forth in section (h) below.

If the City is required to remove an accumulation of snow and/or ice from the adjoining and abutting sidewalk after a second or subsequent Notice has been posted on the front door of the premises of the abutting property, then the administrative fee assessed against the abutting property shall be one hundred dollars (\$100.00) in addition to the material fee. The fees shall be collected in accordance with the procedure set forth in section (h) below.

e. **REMOVAL FROM PRIVATE PROPERTY.** No person shall throw, push or place, or cause to be thrown, pushed, or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled portion of any public street so as to obstruct gutters, or impede the passage of vehicles upon the street, or to create a hazardous condition thereon.

f. **REMOVAL FROM SIDEWALKS.** Snow or ice from sidewalks may be disposed of along the curbs of the public streets prior to the commencement of the City's snow removal operations. Snow or ice may not be disposed of on a public street or public right of way after the City's snow removal operations have been completed on that street. This section is not applicable to snow or ice from the roofs, parking lots, driveways, and private property other than sidewalks.

g. **EXCEPTIONS TO REMOVAL OPERATIONS.** Unique weather conditions may make it necessary to begin snow removal operations before the accumulation of two (2) inches of snow and/or ice on public streets. For example excessive wind speeds causing blowing and drifting, ice storms, freezing rain and sleet etc.

Equipment failures and availability of personnel may interfere with the City's removal operations. When such conditions exist, the removal operations will begin as soon as reasonably possible.

h. **COLLECTION OF ASSESSED FEES.** The City Clerk shall mail a statement of the total administrative fee(s) and material fee(s) incurred under section (d) above to the abutting property owner. If the amount of the administrative fee(s) and material fee(s) shown in the statement has not been paid within 30 days from the date the statement is mailed, the City Clerk shall certify the amount of the unpaid administrative fee(s) and material fee(s) to the County Treasurer and they shall then be collected with, and in the same manner as, general property taxes.

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

(Ord. 101-09, Passed December 4, 2008)

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

### 3-1-5 PUBLIC SAFETY AND HEALTH.

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

(Code of Iowa, Sec. 364.1)

2. **Putting glass, etc., on streets and sidewalks.** No person shall throw or deposit on any street

or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

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

4. Animals and Insects. It shall be unlawful for any person, organization or entity to keep, obtain or have in their possession, or under their control, within the following designated portion of the City:

Commencing at the center of the intersection of Sparks Street and the now vacated portion of Hurst Street, thence South along the center of vacated Hurst Street to the center of the intersection of Hurst Street and Clinton Avenue, thence West along the center of Clinton Avenue to the west boundary line of Lot 7 of Block 25, thence South along the west boundary line of said Lot 7 to the center line of the now abandoned railroad right of way, thence East to a point in Lot 10 of Block 29 which intersects with the west boundary line of Lot 9 extended North, thence South through the center of Blocks 29 and 30 to a point East of the north boundary line of Lot 15 in said Block 30; thence West along the north line of Lot 15 of Block 30 and the north-line of of Lot 14 of Block 31, thence in a northwesterly direction along the westerly boundary lines of Lots 15, 13 and 12 of said Block 31 to the Northwest Corner of Lot 12 in Block 31, thence South to a point located approximately on the east right of way line of the former C.M. St. P & P Railroad right of way which point lies East of the south. line of Lot 6 of, Block 39 as extended, thence West along the south line of said Lot 6 to the center of Main Street, thence West approximately 275 feet, thence North to the, Southwest corner of Lot 6 in Block 26, thence northwesterly along the south boundary lines of Lots 1, 2, 3, 4 and 5 of Block 26 to the Southwest corner of Lot 1 said Block 26, thence North to the north right, of way line of the former C.M. St. P & P Railroad line running east and west, thence northwesterly along the north boundary line of said railroad right of way to the west boundary line of Western Avenue, thence North along said western line of Western Avenue to the north right of way line of Highway #136, thence East along the north right of way line of Highway #136 to the west line of Bloomfield Avenue, thence North along the west line of Bloomfield Avenue to the center of Sparks Street, thence East along the center of Sparks Street to the point of beginning.

(A map outlining and designating the aforementioned portion of the City referred to herein is at the end of this chapter and is available for reference at the city hall.)

such animals as cattle, horses, swine, fowl, goats, sheep or insects such as bees, or any other animals not listed without first being approved by the City Council.

(Ord. 215, Passed April 1, 1992)

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement,

or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

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

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

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

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

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

7. Possession of Fireworks.

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

b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes

in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.

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

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

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

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

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 364.12)

### 3-1-6 PUBLIC PROPERTY.

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



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

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

(Code of Iowa, 364.12(2))

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

9. Injury to roads, railways, and other utilities. No person shall maliciously injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of

electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

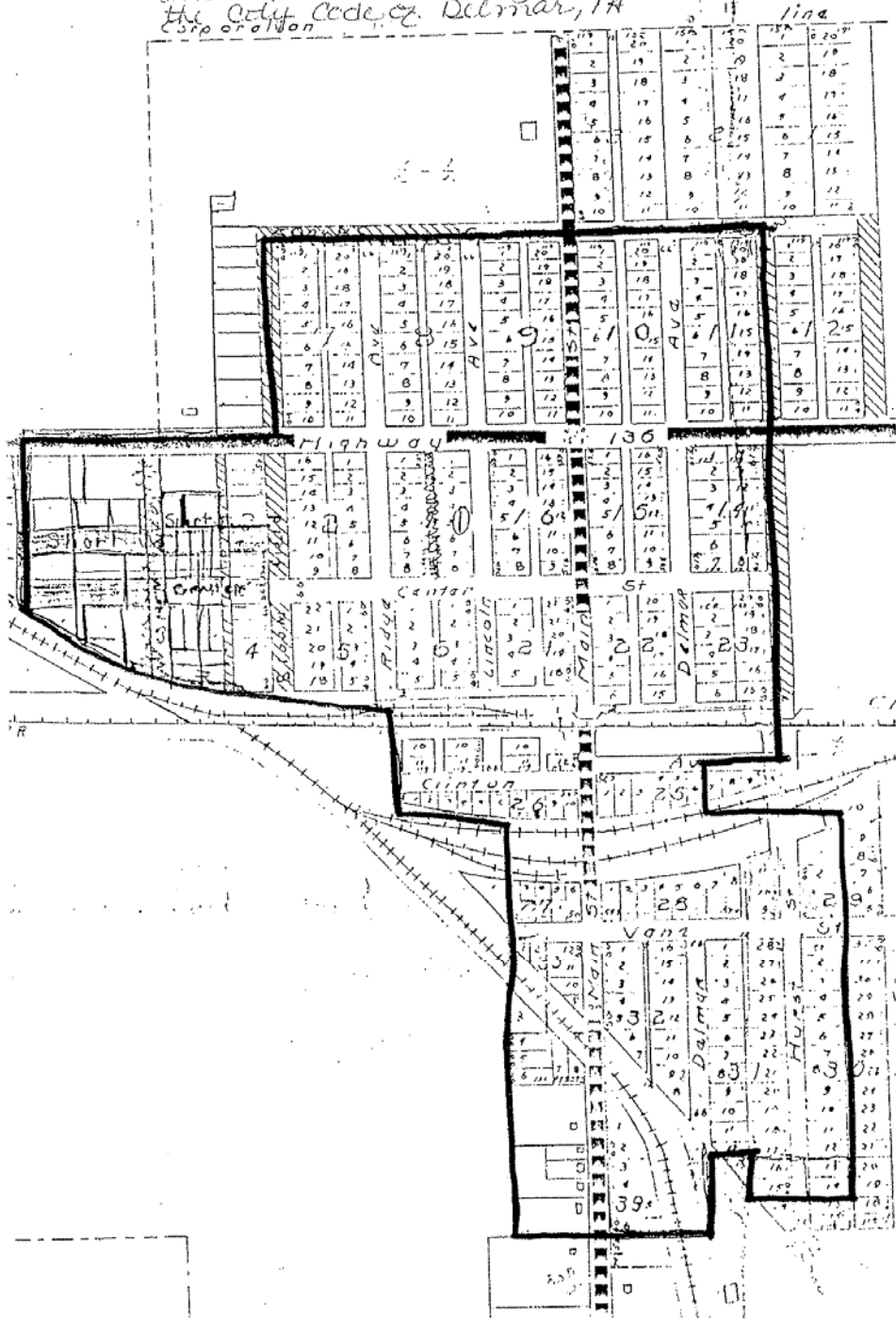
10. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.

(Code of Iowa, Sec. 727.8)

11. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

Bloomfield Twp.  
 Map in Reference to Ordinance #215  
 an ordinance amending Title 3, Chapter 1, of  
 the City Code of Delmar, 1A



## TITLE III COMMUNITY PROTECTION

### CHAPTER 2 NUISANCES

3-2-1	Definitions	3-2-7	Request for Hearing and Appeal
3-2-2	Nuisances Prohibited	3-2-8	Abatement in Emergency
3-2-3	Other Conditions Regulated	3-2-9	Abatement by Municipality
3-2-4	Notice to Abate Nuisance or Condition	3-2-10	Collection of Cost of Abatement
3-2-5	Contents of Notice to Abate	3-2-11	Installment Payment of Cost of Abatement
3-2-6	Method of Service	3-2-12	Condemnation of Nuisance

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses,

or houses resorted to for the use of controlled substances or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

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

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

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

i. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

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

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

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

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

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

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

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

m. Trees infected with Dutch elm disease.

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 657.2)

q. Blowing cut grass into City streets.

(Amended during codification)

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

3. The numbering of buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-2-6 METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the County Auditor.

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

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

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

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

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

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

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk-treasurer shall mail a statement

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

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

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

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A)



**Page 47 – Reserved for Future Use**

## TITLE III COMMUNITY PROTECTION

### CHAPTER 3 TRAFFIC CODE

- 3-3-1 Short Title
- 3-3-2 Definitions
- 3-3-3 Traffic Accident Reports
- 3-3-4 Sheriff's Department to Submit Annual Reports

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

- 3-3-5 Authority of Police and Fire Department Officials
- 3-3-6 Required Obedience to Provisions of this Chapter and State Law

#### TRAFFIC CONTROL DEVICES

- 3-3-7 Authority to Install Traffic-Control Devices
- 3-3-8 City Council to Designate Crosswalks, Establish, and Mark Traffic Lanes
- 3-3-9 Play Streets

#### SPEED REGULATIONS

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

#### TURNING MOVEMENTS

- 3-3-11 Turning Markers, Buttons and Signs
- 3-3-12 Authority to Place Restricted Turn Signs
- 3-3-13 Obedience to No-Turn Signs
- 3-3-14 "U" Turns

#### ONE-WAY STREETS AND ALLEYS

- 3-3-15 Authority to Designate One-Way Streets and Alleys
- 3-3-16 One-Way Streets and Alleys

- 3-3-17 Authority on Streets During Certain Periods

#### SPECIAL STOPS REQUIRED

- 3-3-18 Through Highways
- 3-3-19 Authority to Erect Stop Signs
- 3-3-20 Stops at Intersecting Through Highways and Other Intersections
- 3-3-21 Stop When Traffic Is Obstructed
- 3-3-22 School Stops

#### PEDESTRIANS' RIGHTS AND DUTIES

- 3-3-23 Prohibited Crossing
- 3-3-24 Pedestrians on Left

#### METHOD OF PARKING

- 3-3-25 Standing or Parking Close To Curb
- 3-3-26 Standing or Parking on the Left-Hand Side of One-Way Streets
- 3-3-27 Signs or Markings Indicating Angle Parking
- 3-3-28 Obedience to Angle Parking Signs or Markings

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

- 3-3-29 Stopping, Standing or Parking Prohibited in Specified Places
- 3-3-30 Authority to Paint Curbs and Erect Signs Prohibiting Standing or Parking
- 3-3-31 Authority to Impound Vehicles

#### STOPPING, STANDING OR PARKING

- 3-3-32 Parking Signs Required
- 3-3-33 Parking During Snow Emergency

- 3-3-34 All-Night Parking Prohibited
- 3-3-35 Truck Parking Limited

MISCELLANEOUS DRIVING RULES

- 3-3-36 Vehicles Not to be Driven on Sidewalks
- 3-3-37 Clinging to Vehicles
- 3-3-38 Use of Streets for Storage of Vehicles Restricted
- 3-3-39 Driving Through Funeral or Other Procession
- 3-3-40 Drivers in a Procession
- 3-3-41 Funeral Processions to be Identified
- 3-3-42 Load Restrictions Upon Vehicles Using Certain Streets
- 3-3-43 Truck Routes

BICYCLE REGULATIONS

- 3-3-44 Traffic Code Applies to Persons Riding Bicycles
- 3-3-45 Riding on Bicycles
- 3-3-46 Riding on Roadways and Bicycle Paths
- 3-3-47 Speed
- 3-3-48 Emerging from Alley or Driveway
- 3-3-49 Carrying Articles
- 3-3-50 Parking
- 3-3-51 Riding on Sidewalks
- 3-3-52 Lamps and Other Equipment on Bicycles

SNOWMOBILES

- 3-3-53 Snowmobile Definitions
- 3-3-54 Permitted Areas of Operation
- 3-3-55 Regulations
- 3-3-56 Equipment Required
- 3-3-57 Unattended Vehicles
- 3-3-58 Restriction of Operation
- 3-3-59 Traffic Regulation

PENALTIES AND PROCEDURE ON ARREST

- 3-3-60 Citation Placed on Illegally Parked Vehicle
- 3-3-61 Presumption in Reference to Illegal Parking
- 3-3-62 Local Parking Fines
- 3-3-63 Failure to Pay Parking Citations
- 3-3-64 Vehicular Noise
- 3-3-65 Engine and Compression Brakes

OTHER RULES AND REGULATIONS

- 3-3-66 Investigation of Accidents Reported
- 3-3-67 Traffic Accident Studies
- 3-3-68 Driver's Files Maintained
- 3-3-69 State Speed Laws Applicable
- 3-3-70 Parks, Alleys, Cemeteries, and Parking Lots
- 3-3-71 Emergency Vehicles
- 3-3-72 Operation on Approach of Emergency Vehicles
- 3-3-73 Required for Enforcement Purposes
- 3-3-74 Parking in Alleys
- 3-3-75 Double Parking
- 3-3-76 Loading Zones
- 3-3-77 Limited Parking Zones
- 3-3-78 Special Parking Zones
- 3-3-79 Temporary Embargo
- 3-3-80 Permits for Excess Size and Weight
- 3-3-81 Persons Propelling Push Carts or Riding Animals to Obey Traffic Regulations
- 3-3-82 Use of Coasters, Roller Skates and Similar Devices Restricted
- 3-3-83 Trespassing on Guarded Streets or Other Areas Prohibited
- 3-3-84 Regulating the Hauling or Carrying of Certain Chattels
- 3-3-85 Intent to Injure
- 3-3-86 Obstruction of Driver's View
- 3-3-87 Parades and Procession – Permit Required When
- 3-3-88 Quiet Zones
- 3-3-89 Squealing Tires
- 3-3-90 Trains Not to Block Streets

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

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

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

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

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

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

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

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

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

The Sheriff's Department shall maintain a suitable system of filing traffic accident reports.  
(Code of Iowa, Sec. 321.266)

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

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to

direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic through or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

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

1. 321.32, 321.174, 321.189, 321.193, and 321.218 through 321.224 -- display of registration and license to drive.
2. 321.229 through 321.234A -- obedience to a peace officer and responsibility of public officers, emergency vehicles and bicycles to obey traffic regulations.
3. 321.249 school zones.
4. 321.256 through 321.260 -- traffic signs, signals and markings, including right or left turns on red.
5. 321.261 through 321.266 and 321.268 -- accidents and accident reporting.
6. 321.275 -- operation of motorcycles.
7. 321.277, 321.277A, 321.278, 321.285, 321.288, 321.290, 321.294, and 321.295 -- reckless driving, careless driving, drag racing, speed, control of vehicle and minimum speed.
8. 321.297 through 321.299, 321.302 through 321.310 -- driving on right, meeting, overtaking, following or towing.
9. 321.311 through 321.318 -- turning and starting, signals on turning and stopping.
10. 321.319 through 321.324 -- right of way, and entering through highways, and approaching certain stationary vehicles.
11. 321.325 through 321.334 and 321.340 -- pedestrian rights and duties and safety zones.
12. 321.341 through 321.344 -- railroad crossings.
13. 321.353 through 321.360 -- stop at sidewalks, stopping, standing and parking.  
(321.354 shall apply within the City Limits).

14. 321.362 through 321.371 -- unattended vehicle, obstructing driver's view, crossing median, following fire apparatus, or crossing fire hose, and putting glass, etc. on streets, and school buses.

15. 321.384 through 321.390, 321.392 through 321.398, 321.402 through 321.406, 321.408, 321.409, 321.415, 321.418 through 321.423 -- lighting equipment required and time of use. (Under the provisions of Section 321.395, motor vehicles parked where permitted by this Ordinance need not have parking lamps lighted if the vehicle is within one hundred sixty (160) feet of a City street light ahead and to the rear of the vehicle and the permitted speed on said street is twenty-five (25) miles per hour or less.).

16. 321.430 through 321.434, 321.436 through 321.446, 321.449 and 321.450 -- brakes, horns, sirens, mufflers, wipers, mirrors, tires, windows, safety belts, and special markings for transporting explosives.

17. 321.452 through 321.463, 321.465 and 321.466 -- size, weight and load, and penalties.

## TRAFFIC CONTROL DEVICES

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

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

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

(Code of Iowa, Sec. 321.255 and 321.256)

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

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

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

3-3-9 **PLAY STREETS.** The City Council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect

the same.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

## SPEED REGULATIONS

3-3-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Increased speed limit: None.

2. Lower speed limit:

a. A speed on Main Street in excess of forty-five (45) miles per hour from the South line of the Delmar City limits, North to a point 30 feet South of 913 Main Street, is unlawful.

b. A speed on Main Street in excess of thirty-five (35) miles per hour from a point 30 feet South of 913 Main Street, North to 809 Main Street is unlawful.

c. A speed on Main Street in excess of twenty-five (25) miles per hour from 809 Main Street, North to Delmar Avenue, is unlawful.

(Ord. 214, Passed September 6, 1995)

(Amended during 2004 codification)

## TURNING MOVEMENTS

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

(Code of Iowa, Sec. 321.311)

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

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

signs.

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

#### ONE-WAY STREETS AND ALLEYS

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

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

One-Way: None.

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

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

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

Restrict direction: None.

#### SPECIAL STOPS REQUIRED

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

Highway 136 – Market Street and Main Street  
(Code of Iowa, Sec. 321.345 and 321.350)

3-3-19 AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the City Council to cause to be



placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

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

Stop signs

1. Stop at Market Street on Bloomfield Avenue going south.
2. Stop at Center Street on Bloomfield Avenue going south.
3. Stop at Market Street on Ridge Avenue going south.
4. Stop at Center Street on Ridge Avenue going south.
5. Stop at Main Street on Lincoln Avenue going south.
6. Stop at Center Street on Lincoln Avenue going south.
7. Stop at Railroad Street on Lincoln Avenue going south.
8. Stop at Market Street on Main Street going south.
9. Stop at Market Street on Delmar Avenue going south.
10. Stop at Center Street on Delmar Avenue going south.
11. Stop at Vane Street on Hurst Street going south.
12. Stop at Vane Street on Hurst Street going north.
13. Stop at Vane Street on Delmar Avenue going north.
14. Stop at Center Street on Delmar Avenue going north.
15. Stop at Market Street on Delmar Avenue going north.
16. Stop at Market Street on Main Street going north.
17. Stop at Center Street on Lincoln Avenue going north.
18. Stop at Main Street on Lincoln Avenue going north.
19. Stop at Sparks Street on Lincoln Avenue going north.
20. Stop at Center Street on Ridge Avenue going north.
21. Stop at Market Street on Ridge Avenue going north.
22. Stop at Sparks Street on Ridge Avenue going north.
23. Stop at Market Street on Bloomfield Avenue going north.
24. Stop at Market Street on Western Avenue going north.
25. Stop at Main Street on Market Street going east.
26. Stop at Bloomfield Avenue on Center Street going east.
27. Stop at Ridge Avenue on Center Street going east.
28. Stop at Main Street on Center Street going east.
29. Stop at Main Street on Railroad Street going east.
30. Stop at Main Street on Vane Street going east.
31. Stop at Hurst Street on Vane Street going east.
32. Stop at Main Street on Sparks Street going east.
33. Stop at Delmar Avenue on Center Street going west.
34. Stop at Main Street on Center Street going west.
35. Stop at Ridge Avenue on Center Street going west.

- 36. Stop at Main Street on Railroad Street going west.
  - 37. Stop at Hurst Street on Vane Street going west.
  - 38. Stop at Main Street on Vane Street going west.
  - 39. Stop at Railroad Street on Delmar Avenue going south.
  - 40. Stop at Bloomfield Avenue at Center Street going west.
  - 41. Stop at Center Street at Bloomfield Avenue going north.
- (Ordinance Passed)

**YIELD INTERSECTIONS**

None.

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

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

School stops

- 1. Stop at Delmar Avenue on Market Street going east.
- 2. Stop at Delmar Avenue on Market Street going west.
- 3. Stop at Center Street going south.
- 4. Stop at Center Street going north.

**PEDESTRIANS' RIGHTS AND DUTIES**

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

(Code of Iowa, Sec. 321.327)

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

(Code of Iowa, Sec. 321.326)

**METHOD OF PARKING**

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

3-3-27 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The City Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution. No part of any vehicle, or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

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

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

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

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a

street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.

9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.

11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.

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

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

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

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

16. Within twenty (20) feet on either side of a made drop box which is so places and so equipped as to permit the depositing of mail from vehicles on the roadway.

17. There shall be no parking on Market St. (Highway 136) on the North or South side of the streets within the city limits of the City of Delmar, Iowa.

3-3-30 **AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.** When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause curbs to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the City Council, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

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

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

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury

incapacitated to such an extent as to be unable to provide for its custody or removal.

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

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

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

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

Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows who is the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefore and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

Whenever an officer removes a vehicle from a street under this section and does not know and is unable to ascertain the name of the owner, or for any reason is unable to give the notice to the owner as hereinafter provided, and in the event the vehicle is not returned to the owner within a period of three (3) days, then and in the event the officer shall immediately send or cause to be sent written report of such removal by mail to the State Department whose duty it is to register motor vehicles and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

## STOPPING, STANDING OR PARKING

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

(Code of Iowa, Sec. 321.236)

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

hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the Mayor is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Mayor shall inform the news media to publicize the proclamation and the parking rules under the emergency. Such emergency may be extended or shortened when conditions warrant.

(Code of Iowa, Sec. 321.236)

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

3-3-35 TRUCK PARKING LIMITED. Trucks having a gross vehicle with rating of 16,001 lbs or more, loaded or empty, shall be parked at the following locations on the streets named:

No parking on any City street. Trucks may park in the designated truck parking lot at the west end of Clinton street.

(Ord. 216, Passed May 1, 1996)

#### MISCELLANEOUS DRIVING RULES

3-3-36 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area.

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

3-3-38 USE OF STREETS FOR STORAGE OF VEHICLES RESTRICTED. A person owning any vehicle or special mobile equipment (such as camping trailers, motor homes, campers, "fifth wheel motor home", boats, trailers, boats and trailers) shall not leave parked on city streets or city property, without written consent from the City Clerk-treasurer's office, the aforementioned for a length of time not to exceed forty-eight (48) hours. When the vehicle or special mobile equipment or boats and/or trailers is left parked upon a city street or city property for a continuous period of forty-eight (48) hours or more the owner shall receive not to exceed \$25.00 for first offense and \$50.00 for second offense, in addition to all towing fees, payable to the City Clerk-treasurer.

(Ordinance Passed August 2, 2000)

3-3-39 DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are

in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

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

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

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

None.

3-3-43 TRUCK ROUTES.

1. Every motor vehicle licensed for five tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:

Highway 136

Main Street

2. Any motor vehicle licensed for five tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

3. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

## BICYCLE REGULATIONS

3-3-44 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a

bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-45 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

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

3-3-46 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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

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

3-3-47 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-48 EMERGING FROM ALLEY OR DRIVEWAY. The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-49 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

3-3-50 PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-51 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

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

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

3-3-52 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance



of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

## SNOWMOBILES

### 3-3-53 DEFINITIONS.

1. "All-terrain vehicle" means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road recreational use. "All-terrain vehicle" does not include off-road utility vehicles, farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

2. "Golf Cart" means a self-propelled motor vehicle, which is designed to travel at low speed and is intended to transport a person or property on a golf course.

3. "Utility vehicle" means a motor vehicle designed to travel on not less than four and not more than eight low-pressure tires and has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

4. "Snowmobile" means a motor vehicle which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks, or treads.

5. "Operate" means to ride in or on, other than as a passenger, use, or control the operation of a motor vehicle in any manner, whether or not the motor vehicle is moving.

6. "Operator" means a person who operates or is in actual physical control of a motor vehicle.  
(Ord. 106-11, Passed October 13, 2010)

3-3-54 PERMITTED AREAS OF OPERATION. Snowmobiles, golf carts and utility vehicles will be allowed to operate in the City as follows:

All streets within the city except Main Street from the Fire Station north to Highway 136, and all alleys of the city.

The route established herein shall be the only permitted route for snowmobiles, golf carts and utility vehicles and the snowmobiles, golf carts and utility vehicles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

(Ord. 106-11, Passed October 13, 2010)

### 3-3-54.1 ALL-TERRAIN VEHICLES-HIGHWAY USE

1. It shall be unlawful for any person to operate an all-terrain vehicle on any public highway, public street, or public road within the city limits of the City of Delmar, Iowa.

2. It shall be unlawful for any person to operate an all-terrain vehicle within the right-of-way of any public highway, within the right-of-way of any public street, or within the right-of-way of any public road within the city limits of the City of Delmar, Iowa.

3. A person convicted of a violation of this section is guilty of a municipal infraction punishable by penalty as provided for under Title I General Provisions, Chapter 3 Penalty, Section 1-3-2 Civil Penalty — Municipal Infraction of the Delmar Code of Ordinances {2004}.

(Ord. 106-11, Passed October 13, 2010)

3-3-55 REGULATIONS. It shall be unlawful for any person to operate a snowmobile, golf cart, or utility vehicle under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.

2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.

3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

5. Without having such snowmobile, golf cart, or utility vehicle registered as provided for by the Code of Iowa except that this provision shall not apply to the operation of a snowmobile, golf cart, or utility vehicle on the private property of the owner by the owner of such motor vehicle or a member of his immediate family.

6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.

7. No person shall operate a snowmobile, golf cart or utility vehicle in the City from eleven o'clock (11 :00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading any such motor vehicle from another vehicle or trailer.

(Ord. 106-11, Passed October 13, 2010)

3-3-56 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the

vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

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

3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-3-57 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile, golf cart, or utility vehicle to be or remain unattended on public property while the motor is running or with the key remaining in the ignition.

(Ord. 106-11, Passed October 13, 2010)

3-3-58 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles, golf carts, and/or utility vehicles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

(Ord. 106-11, Passed October 13, 2010)

3-3-59 TRAFFIC REGULATION. Each person operating a snowmobile, golf carts, or utility vehicle shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

(Ord. 106-11, Passed October 13, 2010)

#### PENALTIES AND PROCEDURE ON ARREST

3-3-60 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk-treasurer's office as provided therein.

3-3-61 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-62 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk-treasurer 's office within thirty (30) days of the violation, for the

following parking violations:

		Penalty After <u>30 Days</u>
1. Overtime parking	\$ 5.00	\$
2. Prohibited parking	\$ 5.00	\$
3. No parking zone	\$ 5.00	\$
4. Blocking alley	\$ 5.00	\$
5. Illegal parking	\$ 5.00	\$
6. Street cleaning	\$ 5.00	\$
7. Snow removal ban	\$ 5.00	\$
8. Persons with disabilities parking	\$ 100.00	\$

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

3-3-63 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

#### 3-3-64 VEHICULAR NOISE.

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

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

#### 3-3-65 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

#### OTHER RULES AND REGULATIONS

3-3-66 INVESTIGATION OF ACCIDENTS REPORTED. The Sheriff' Department, County Municipal Police, or any other law enforcement officer shall investigate all accidents reported.

If sufficient evidence of a violation is found, proper action will be taken to punish the violator.

3-3-67 TRAFFIC ACCIDENT STUDIES. Whenever the accidents at any particular location become numerous, the Sheriff's Department, County Municipal Police or any other law enforcement officer may conduct studies of such accidents and propose remedial measures.

3-3-68 DRIVER'S FILES MAINTAINED. The Sheriff's Department, County Municipal Police or any other law enforcement officer shall maintain a suitable record of all traffic accidents.

3-3-69 STATE SPEED LAWS APPLICABLE. No person shall drive or operate a vehicle at a speed greater than, not less than is reasonable and prudent under the conditions and having regard to the traffic, surface, and width of the street or highway and of any other conditions then existing and no person shall drive or operate any vehicle upon a street or highway at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead, such driver or operator having the right to assume, however, that all persons using said street or highway will observe the law. The state traffic laws regulating the speed of vehicles, and specifically Section 321.285 of the 1979 Code of Iowa, and any amendments thereto, shall be applicable upon all streets within this city except that the following speed restrictions are adopted:

1. Business district, twenty miles per hour;
2. Residence district, twenty-five miles per hour, except for that portion of Main Street as set forth in 3-3-10 (2);
3. School district, twenty-five miles per hour, except for that portion of Main Street as set forth in 3-3-10 (2);
4. Suburban district, forty-five miles per hour, except for that portion of Main Street as set forth in 3-3-10 (2).

(Ord. 214, Passed September 6, 1995)

3-3-70 PARKS, ALLEYS, CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in an public park, alley, cemetery or parking lot, unless specifically designated otherwise in this article, is unlawful.

3-3-71 EMERGENCY VEHICLES. The speed limitations set forth in this article do not apply to authorized emergency vehicles when responding to emergency calls and the driver's thereof sound audible signal by bell, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of other.

3-3-72 OPERATON ON APPROACH OF EMERGENCY VEHICLES. Upon the immediate approach of an authorized emergency vehicle with any lamp or device displaying a red light of flashing red light from directly in front thereof, or when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and

shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

3-3-73 REQUIRED FOR ENFORCEMENT PURPOSES. When no provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in regular position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

3-3-74 PARKING IN ALLEYS.

1. No person shall park or allow to stand any vehicle in any alley where official signs indicate that parking is prohibited.

2. In alleys where parking is not prohibited, no person shall park a vehicle or allow a vehicle to stand in such manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any building or other abutting property.

3-3-75 DOUBLE PARKING. No motor vehicle shall be permitted to stop and double park within the city. Parking parallel with and more than eighteen inches from the curb shall be considered double parking.

3-3-76 LOADING ZONES. The council shall by resolution from time to time establish such loading zones as the council may deem advisable, and no parking shall be permitted in said loading zones except for the purpose of loading or unloading.

3-3-77 LIMITED PARKING ZONES. The council may from time to time establish limited parking zones upon the streets and alleys of the city.

Limited Time Parking – None.

3-3-78 SPECIAL PARKING ZONES. The council may from time to time establish by resolution parking zones restricted for doctors and physicians and which areas shall be designated by proper signs signifying such zones.

3-3-79 TEMPORARY EMBARGO. If the council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damage or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

3-3-80 PERMITS FOR EXCESS SIZE AND WEIGHT. The city council may, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by state law over those streets named in the permit which are under the jurisdiction of the city and for which the city is responsible for

maintenance.

**3-3-81 PERSONS PROPELLING PUSH CARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS.** Every person propelling any push cart or riding any animal upon a roadway, and every person driving any animal-drawn vehicle shall be subject to the provisions of those sections applicable to the driver of any vehicle, except those provisions of which by their nature can have no application.

**3-3-82 USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.** No person upon roller skates or riding in or by means of any coaster, toy vehicles or similar device shall go upon any roadway except while crossing a street or a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of this city.

**3-3-83 TRESPASSING ON GUARDED STREETS OR OTHER AREAS PROHIBITED.** It is unlawful for the driver of any vehicle or for any pedestrian, without authority, to trespass on foot or with any vehicle or any conveyance, upon any street or alley or part thereof, which is enclosed or guarded with safeguards or indicated by signs or signals, placed or erected for the purpose of guarding or protection the repairing, constructing, reconstructing, grading, resurfacing or paving of any street or alley or any part thereof, or for the purpose of guarding or protecting the constructing or reconstructing of any sewers, water, light, gas or other public work thereon.

**3-3-84 REGULATING THE HAULING OR CARRYING OF CERTAIN CHATTELS.** It is unlawful for any person to haul or convey upon streets, alleys or public places within the corporate limits of the city, in or upon any vehicle, building material, fixtures, tools, machines or other inanimate chattels which extend more than four feet beyond the rear of such vehicle, or more than tree feet in front of such vehicle, without displaying a red signal during the period from one-half hour before sunrise to one-half hour after sunset, and a red light during the period from one-half hour after sunset to one-half hour before sunrise.

**3-3-85 INTENT TO INJURE.** It is unlawful for any person, with intent to commit any malicious mischief, injury or other crime, to climb into or upon a vehicle whether it is in motion or at rest, or, with like intent, to manipulate any of the levers, starting mechanisms or devices while the same is at rest or unattended, or with like intent, to set in motion an vehicle while the same is at rest or unattended.

**3-3-86 OBSTRUCTION T DRIVER' VIEW.** No person shall drive a vehicle when it is so loaded, or when there are in front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle. No person in such vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

**3-3-87 PARADES AND PROCESSION—PERMIT REQUIRED WHEN.** No procession or

parade containing fifty or more persons or ten or more vehicles, excepting forces of the United States Army, Navy or Marine Corps, the military force of this state and the forces of the sheriff and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the city council and such other regulations as are set forth herein which may apply.

3-3-88 QUIET ZONES. Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency.

3-3-89 SQUEALING TIRES. No person shall squeal the tires of a vehicle within the city limits.

3-3-90 TRAINS NOT TO BLOCK STREETS. It is unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this provision shall not apply to trains in motion other than those engaged in switching.



**Pages 71 to 74 - Reserved for Future Use**







**TITLE III COMMUNITY PROTECTION**

**CHAPTER 4 RESERVED**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 5 FIRE PROTECTION**

#### 3-5-1 Fire Protection Provision

3-5-1 FIRE PROTECTION PROVISION. The city of Delmar has a 28E agreement with the Delmar Volunteer Fire Department for fire protection.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 6 CURFEW FOR MINORS

3-6-1	Preamble	3-6-5	Defenses
3-6-2	Findings and Purpose	3-6-6	Enforcement
3-6-3	Definitions	3-6-7	Exception for Sidewalks
3-6-4	Offenses		

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

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Delmar; and

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

The City of Delmar has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

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

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

#### 3-6-4 OFFENSES.

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



### 3-6-5 DEFENSES.

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

### 3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.
2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the Sheriff's Department.

3-6-7 EXCEPTION FOR SIDEWALKS. The minors of the City of Delmar tend to gather, especially in the summer on the lawn and the sidewalk in front of their homes. A minor shall not be in violation of this ordinance if he is on the public sidewalk between the street and the home of his parent or the home of one of the members of the group with whom the minor is socializing if the gathering is otherwise lawful.

1. Penalty. A minor who violates this ordinance shall be subject to a fine not to exceed \$50.00 for the first offense and not to exceed \$100.00 for the second and subsequent offenses.

2. Enforcement. A minor who is in violation of this ordinance shall be reunited with his parents or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officer of the City of Delmar.

(Ord. Passed February 3, 1993)

(Amended during 2004 codification)

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

**Page 81 – Reserved for Future Use**

## TITLE III COMMUNITY PROTECTION

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

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

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

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

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

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

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

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

3-7-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk-treasurer a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than 24 hours. A fee of \$100.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)  
(Amended during 2004 codification)  
(Amended during codification)

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

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

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

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

3-7-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or

litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

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

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

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

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

## TITLE III COMMUNITY PROTECTION

### CHAPTER 8 CIGARETTE LICENSE

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

3-8-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

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

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

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

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

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

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

3-8-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Delmar, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

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

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

3-8-4 EXPIRATION. Permits expire on June 30 of each year.

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

3-8-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

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

3-8-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.

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

3-8-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

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

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

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

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

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

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

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



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

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

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

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

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

3-8-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

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

**Page 88 – Reserved for Future Use**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 9 ALCOHOLIC BEVERAGES**

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

3-9-1 **PURPOSE.** The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.  
(Code of Iowa, Sec. 364.1)

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

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited

15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Exoneration

16. 123.47 Persons Under Legal Age - Penalty

17. 123.49 Miscellaneous Prohibitions

18. 123.50 Criminal and Civil Penalties

19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer

20. 123.52 Prohibited Sale

21. 123.90 Penalties Generally

22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings

23. 123.122 through 123.145 Beer Provisions (Division II)

24. 123.150 Sunday Sales Before New Year's Day

25. 123.171 through 123.182 Wine Provisions (Division V)

26. 321.284 Open Containers in Motor Vehicles - Drivers

27. 321.284A Open Containers in Motor Vehicles - Passengers

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

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

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

(Code of Iowa, Sec. 123.38)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 10 JUNK AND ABANDONED VEHICLES

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

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

(Code of Iowa, Sec. 3641.1)

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

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

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

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

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

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

e. Any vehicle parked on the street determined by the sheriff to create a hazard to other vehicular traffic.

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

2. "Private property" means any real property within the City which is not public property as

defined in this section.

3. "Public property" means any public right-of-way open for the purposes of vehicular travel.

4. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:

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

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

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

d. Any vehicle which contains gasoline or any other flammable fuel.

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

f. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

### 3-10-3 REMOVAL OF ABANDONED VEHICLES.

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

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

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

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

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

#### 3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the City shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the City or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.

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

2. The owner or any person receiving notice may, by written request received by the City prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

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

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

- a. the identity of the last registered owner cannot be determined, or
- b. the registration contains no address for the owner, or
- c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

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

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten day reclaiming period.

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

### 3-10-5 IMPOUNDMENT FEES AND BOND.

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

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

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

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



charges shall be limited to the actual cost.

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

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

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

### 3-10-6 HEARING PROCEDURES.

1. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

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

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

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

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

### 3-10-9 NOTICE TO ABATE.

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

a. the owner of the property.

b. the occupant of the property.

2. The notice to abate shall:

a. describe, to the extent possible, the year, make, model, and color of the vehicle.

- b. describe the location of the vehicle.
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
- d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

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

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

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

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

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

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

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

**Page 97 - Reserved for Future Use**

## TITLE III COMMUNITY PROTECTION

### CHAPTER 11 DILAPIDATED BUILDINGS

3-11-1	Building Official	3-11-5	Right to Demolish
3-11-2	Definition of Unsafe	3-11-6	Costs
3-11-3	Notice to Owner	3-11-7	Penalty
3-11-4	Posting of Signs		

3-11-1 **BUILDING OFFICIAL.** The Building Official shall be responsible for the enforcement of this ordinance. The council may either appoint a person to be the building official or designate some other officer to carry out the duties of the building official.

3-11-2 **DEFINITION OF UNSAFE.** All building or structures that are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this ordinance, the city building code or any other ordinance, are, for the purpose of this ordinance, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolitions, or removal in accordance with the procedure specified in sections 3-11-2, 3-11-3, 3-11-4, and 3-11-5 of this ordinance.

“Unsafe buildings” shall mean any structure or mobile home meeting any or all of the following criteria:

1. Whenever any portion or member or appurtenance thereof is likely to fail, or become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of twenty pounds per square foot.
3. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
4. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay, or inadequacy of its foundation; or (e) any other cause, is likely to collapse partially or completely.
5. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
6. Whenever the exterior walls or other vertical structural members list, lean, buckle to such

an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

7. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or enclosing or outside walls or coverings.

8. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals, or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation, or in such condition that is likely to cause sickness or disease.

10. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the state fire marshal or city fire chief to be a fire hazard.

11. Whenever any building or structure is in such a condition to constitute a public nuisance known to the common law or in equity jurisprudence.

12. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3-11-3 NOTICE TO OWNER. The building official shall examine, or cause to be examined, every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the building official shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety days from the date of notice, unless otherwise stipulated by the building official. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the building official.

Notice shall be served upon the owner by certified mail, with return requested. If the letter is returned as refused or undeliverable, the law considers notice to have been given, and this section is satisfied. Where there is no record of the owner, the notice may be made by an ordinance. The designated period within which the owner or person in charge is required to comply with the order of

the building official shall begin as of the date the owner receives such notice. However, such notice shall, except in cases of immediate danger, the person notified may request a hearing before the council concerning the determination that the building be repaired, removed, or demolished, and such request shall be made at least three days before the deadline set in the notice, if less than fifteen days was set, and at least ten days if over twenty-one days was set.

3-11-4 POSTING OF SIGNS. The building official shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. Building Department, City of Delmar." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the building official and no person shall enter the building except for the purposes of making the required repairs or of demolishing the building.

3-11-5 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the city council may order the owner of the building prosecuted as a violator of the provisions of this ordinance and may order the building official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council.

3-11-6 COSTS. Costs incurred under section 6 shall be paid out of the city treasury. Such costs shall be charged to the owner of the premises involved and levied against the land on which the building or structure is located, and shall be collected in the manner provided in section 364.12 (3) (h), Code of Iowa.

3-11-7 PENALTY. Anyone who violates any of the provisions of this ordinance shall be subject, upon conviction, to imprisonment not exceeding thirty days, or a fine not exceeding \$100.00.  
(Ord. 209, Passed April 6, 1988)

**TITLE IV MENTAL AND PHYSICAL HEALTH**

**CHAPTER 1 ANIMAL CONTROL**

4-1-1	Definitions	4-1-10	Abandonment of Cats and Dogs
4-1-2	Immunization	4-1-11	Damage or Interference
4-1-3	At Large Prohibited	4-1-12	Owner's Duty
4-1-4	Animal Nuisances	4-1-13	Confinement
4-1-5	Impounding	4-1-14	Tethering of Animals
4-1-6	Dangerous Animals	4-1-15	Animals in Parks
4-1-7	Keeping a Vicious Animal	4-1-16	Unhealthful or Unsanitary Conditions
4-1-8	Animal Neglect		
4-1-9	Livestock Neglect		

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

1. The term "dogs" shall mean animals of the canine species whether altered or not.
2. The term "cats" shall mean animals of the feline species whether altered or not.  
(Amended during 2011 codification)

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

4. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.  
(Amended during 2004 codification)

4-1-2 IMMUNIZATION. All dogs and cats six (6) months or older shall be vaccinated against rabies. It shall be a violation of this Ordinance for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog and cat when not confined.

(Code of Iowa, Sec. 351.33)  
(Amended during 2011 codification)

4-1-3 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)  
(Amended during 2004 codification)

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

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.

2. Causes unsanitary, dangerous or offensive conditions.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(Code of Iowa, Sec. 657.1)

#### 4-1-5 IMPOUNDING.

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

(Amended during 2004 codification)

(Amended during 2011 codification)

2. Owners of dogs and/or cats shall be notified within two (2) days that upon payment of actual costs, including transportation and other related costs, plus cost of food and care in a reasonable amount, the dog and/or cat will be returned. If the impounded dogs and/or cats are not recovered by their owners within seven (7) days after notice, the dogs and/or cats shall be disposed of as provided in Section 717B.4 Code of Iowa.

(Amended during 2004 codification)

(Amended during 2011 codification)

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

(Code of Iowa, Sec. 351.39)

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

(Code of Iowa, Sec 351.39)

6. In addition to or in lieu of impounding an animal found at large, the humane officer or sheriff's department may issue to the known owner of such animal a notice of \$100.00 for first offense, and \$200.00 for second offense, which may, at the discretion of the animal owner, be paid to the City Clerk-treasurer. In the event that such penalty is not paid within the time period prescribed, a civil citation shall be initiated before a magistrate and be punished as provided in chapter 3 of the Municipal Code of the City of Delmar.

(Ordinance Passed July 5, 2000)

(Amended during 2011 codification)

#### 4-1-6 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose



within the City limits, a dangerous animal.

2. Definitions. A dangerous animal is:

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

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

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

(2) Wolves, coyotes, and foxes;

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

(4) Raccoons;

(5) Bears;

(6) Monkeys, chimpanzees, and apes;

(7) Alligators and crocodiles;

(8) Scorpions; gila monsters;

(9) Snakes that are venomous or constrictors;

(Amended during codification)

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

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

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

(Amended during 2004 codification)

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

(Amended during 2004 codification)

4-1-8 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec 717B.3)

4-1-9 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec 717.2)

4-1-10 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec 717B.8)

4-1-11 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

**IS THIS THE ENTIRE SECTION?**

4-1-12 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec 351.38)

4-1-13 CONFINEMENT. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec 351.39)

4-1-14 TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley or private property other than the owner's. A person shall tether an animal on a leash no longer than six (6) feet when walking said animal on a public sidewalk. Said animal shall be considered at large.

(Amended during codification)

4-1-15 ANIMALS IN PARKS. No animal shall be allowed in any area of a City Park unless it is

attached to a leash having sufficient strength to restrain the animal and no more than six (6) feet in length. In addition, the leash must be held by a person capable of restraining and controlling the animal. No person in control of the animal shall permit the animal to defecate in a City Park unless such waste is immediately removed and properly disposed of.

(Amended during codification)

#### 4-1-16 UNHEALTHFUL OR UNSANITARY CONDITIONS.

1. An owner shall keep all structures, pens, coops or yards wherein animals are confined clean, devoid of vermin and free of odors arising from feces.

2. No person in control of any animal shall permit the animal to discharge feces on any property, other than his or her own, without taking steps to immediately remove and clean up the feces.

(Amended during codification)

**Page 104 – Reserved for Future Use**

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

### **CHAPTER 1 LIBRARY SERVICES**

#### 5-1-1 Provided Services

5-1-1 **PROVIDED SERVICES.** Citizens may go to any branch of the Clinton County Library for a library card and use library services throughout Clinton and Jackson Counties. Citizens must renew their library card on an annual basis.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

6-1-1	Purpose	6-1-11	Mobile Home Park Layout
6-1-2	Definitions	6-1-12	Water Supply
6-1-3	Location of Mobile Homes	6-1-13	Sewage Disposal
6-1-4	Permanent Occupancy	6-1-14	Community Building
6-1-5	Limitation on Length of Stay	6-1-15	Refuse Disposal
6-1-6	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-16	Insect and Rodent Control
6-1-7	Emergency and Temporary Parking	6-1-17	Electricity for Mobile Homes
6-1-8	Building Requirements	6-1-18	Storm Drains
6-1-9	Mobile Home Hookups	6-1-19	Fire Protection
6-1-10	Regulations to Which Mobile Home Park Owners are Subject	6-1-20	Speed Limit
		6-1-21	Fuel for Mobile Home
		6-1-22	Fires, Communicable Diseases, Permanent Registers
		6-1-23	Penalty

6-1-1 PURPOSE. The purpose of this ordinance is to provide certain minimum standards for mobile home parks to the mutual advantage of mobile home occupants and the community at large.

6-1-2 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976.

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

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

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

3. "Independent mobile home" means a mobile home that has toilet facilities and bath or shower.

4. "Dependent mobile home" means a mobile home that does not have toilet facilities and bath or shower.

5. “Mobile home space” is a plot of ground designated for the accommodation of one mobile home.

6. “Community building” means a building having communal toilet, bath or shower, laundry and other sanitary facilities necessary for the health and convenience of the mobile home occupants.

6-1-3 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-4 PERMANENT OCCUPANCY. Mobile homes shall not be used as a permanent dwelling place or for indefinite periods of time; provided that any mobile home connected with the City’s sewer and water system may be permitted, on premises other than a mobile home park, on a permanent basis, if the mobile home meets with all the requirements of the building, plumbing, health, sanitary, electrical and zoning ordinances of this City.

6-1-5 LIMITATION ON LENGTH OF STAY. 15 days shall be the maximum period of time any person may occupy a mobile home in any 12 month period of this City, except as provided in Section 4 of this ordinance, and except upon showing proof that a housing shortage exists in the community, in which case an additional 15 day period may be granted. The limitations imposed in this section shall not apply to the licensee of the mobile home park or his employees.

6-1-6 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, after reviewing the application of a mobile home owner, may issue special permits allowing the location of mobile homes outside of mobile home parks for a period of time not exceeding 6 months. Not more than two mobile homes shall be permitted to locate on the same premises outside of mobile home parks. The City shall cause mobile homes located outside of mobile home parks to be inspected and these mobile homes shall meet the sanitation standards set up for independent mobile homes within mobile home parks. The person owning a mobile home located outside of a mobile home park must pay to the County Treasurer the monthly fees required by state law. Application for a special permit shall be accompanied by an inspection fee of \$15.00. The application shall contain:

1. A description of the applicant’s mobile home;
2. A property description of the place where the mobile home will be located;
3. Information on the sanitation facilities of the mobile home and those facilities available at the place of location;
4. A statement as to whether the applicant is a tourist;
5. The name of the owner of the premises upon which the mobile home will be located.

A written approval from the owner of the premises where the mobile home will be located shall

accompany the application.

6-1-7 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

6-1-8 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent **perimeter** foundation (except that any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement. The effective date of this Ordinance is October 6, 2004).\*

(Code of Iowa, Sec. 435.26)

6-1-9 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The connections are subject to inspection and approval by city officials and the mobile home dealer shall pay an inspection fee of \$100.00. No additional permits shall be required.

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

6-1-10 REGULATIONS TO WHICH MOBILE HOME PARK OWNERS ARE SUBJECT. Persons, firms or corporations who operate mobile home parks shall be subject to the following regulations in addition to the provisions in chapter 135D of the Iowa Code, the rules and regulations of the Iowa State Department of Health and other applicable ordinances of this City.

6-1-11 MOBILE HOME PARK LAYOUT.

1. 11 main access roads shall be continuous.
2. Main access roads shall be 20 feet wide, excluding parking. Where parking is permitted along such roads, an additional six feet of road for parallel parking and an additional 16 feet of road for diagonal parking shall be provided on each side of the road on which parking is permitted.
3. At least one motor vehicle parking space shall be provided for every mobile home space in a mobile home park.
4. Adequate space shall be provided for a playground area for the children living in the mobile home park.
5. Walks shall be provided from the entrance of each mobile home to the service facilities. These walks shall be at least three feet wide and shall be constructed of concrete, macadam, gravel, fine stone, cinders or other materials that provide a stable footing.



6. The rules and regulation of the Iowa State Department of Health on mobile home park layout shall be followed.

6-1-12 WATER SUPPLY.

1. The quantity of water to be provided shall equal 125 gallons per day per mobile home space.
2. Where plumbing facilities permit, water shall be piped to all independent mobile homes.
3. The rules and regulations of the State Department of Health on water supply shall be followed.

6-1-13 SEWAGE DISPOSAL. The rules and regulations of the State Department of Health shall be followed.

6-1-14 COMMUNITY BUILDING. A community building or building containing toilet and washing facilities shall be provided in each mobile home park, except when such facilities are provided for each mobile home space, or when only independent mobile homes are accepted in the park and individual water and sewer connections are available at each mobile home space for the independent mobile homes which are accepted. A community building shall be located within 200 feet of every dependent mobile home in the park and shall have the following facilities:

1. At least one laundry unit (washing machine or laundry tray).
2. A continuous supply of at least three gallons of hot water per mobile home space.
3. The facilities described in the rules and regulations of the State Health Department.

6-1-15 REFUSE DISPOSAL. Refuse containers shall be located not further than 150 feet from any mobile home space. The types of container used, the amount of refuse container space for each mobile home space and the frequency at which refuse must be collected shall be in accordance with the rules and regulations of the Iowa State Department of Health.

6-1-16 INSECT AND RODENT CONTROL. Insect and rodent control measures to safeguard public health, as recommended by the health officer, shall be applied in all mobile home parks.

6-1-17 ELECTRICITY FOR MOBILE HOMES. Each mobile home shall be provided with electric power consisting of at least one outlet applying 110-115 volts.

6-1-18 STORM DRAINS. Storm drains shall be installed at a grade to insure a velocity of two feet per second when flowing full. Storm water shall not be discharged into sanitary sewers.

6-1-19 FIRE PROTECTION.

1. Where a public water system is available, fire hydrants shall be installed according to the

recommendations of the City fire department. There shall also be a portable fire extinguisher, approved by the City fire department, in each community building.

2. Where the water distribution system is not intended to provide for fire hose outlets, portable fire extinguishers, approved by local fire protection authorities, shall be provided. There shall be one extinguisher at each community building and at other suitable locations, so that there is at least 1 extinguisher for every 2 mobile homes or fraction thereof.

6-1-20 SPEED LIMIT. The maximum speed limit for any vehicle in a mobile home park shall be 15 miles per hour.

6-1-21 FUEL FOR MOBILE HOME. Cylinders, containing liquefied petroleum gas or oil to be used as fuel by mobile home occupants, shall be connected to the stoves or heaters of mobile homes by copper or other metallic tubing, to provide leak proof connections. The cylinders shall be securely fastened in place and may not be closer than five feet from any mobile home exit.

6-1-22 FIRES, COMMUNICABLE DISEASES, PERMANENT REGISTERS. The rules and regulations of the Iowa State Department of Health on fires, communicable diseases and permanent registers shall be followed.

6-1-23 PENALTY. Anyone violating any of the provisions of this ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty days, or a fine not exceeding one hundred dollars (\$100.00). Each day that a violation is permitted to exist constitutes a separate offense.

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

**Page 111 - Reserved for Future Use**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 2 UTILITIES - SANITARY SYSTEM

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

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

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

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

(IAC 567-69.3(1))

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

(IAC 567-69.3(1))

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

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

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

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

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

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

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking,

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

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

12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

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

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

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

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

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

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

19. "Superintendent" shall mean the maintenance manager of the City of Delmar or the Superintendent's authorized deputy, agent, or representative.

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

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

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

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

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

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

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

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

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

(IAC 567-69.3(3))

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

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in

compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

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

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

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$5.00 dollars for a residential or commercial building sewer permit and \$15.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

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

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

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

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

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

#### Vitrified Clay Pipe VCP

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

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

#### Extra Heavy Cast Iron Soil Pipe

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

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



### Polyvinyl Chloride (PVC)

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

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

Minimum wall thickness:

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

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

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

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

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

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

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

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

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

b. Non-payment of bills.

c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

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

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In

forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
- b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, - in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- h. Any waters or wastes having a pH in excess of 9.5.
- i. Materials which exert or cause:
  - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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

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

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

a. Reject the wastes,

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge, and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

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

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which

reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

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

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

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

(Code of Iowa, Sec. 716.1)

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

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper

credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### 6-2-8 PENALTIES.

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

2 Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

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

**Pages 124 & 125 - Reserved for Future Use**





## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 3 UTILITIES - WATER RULES AND REGULATIONS

6-3-1	Application Process	6-3-5	Protection from Damage
6-3-2	Use of Public Water Required	6-3-6	Powers and Authority
6-3-3	Customer Service Process	6-3-7	Making the Connection
6-3-4	Service Discontinuance Process	6-3-8	Penalties

#### 6-3-1 APPLICATION PROCESS.

1. Property owner or property owner's agent, hereinafter called customer, must make written application for water service at the Clerk's / Secretary's office of the municipality and said application including service received thereunder is unassignable by the customer.

2. All taps and connections to the mains of the utility shall be made by and / or under the direction and supervision of waterworks personnel and constructed in accordance with the provisions of this ordinance.

3. The utility shall provide at its expense the original necessary tap, fittings and shut off valve, and the customer shall install and maintain at the customer's expense that portion of the service from the said main to the customer's premises, including a stop and waste cock at the end of the house side of the customer's service. The minimum earth cover of the customer's service shall be five (5) feet. The utility shall determine the size and kind of service to be installed.

4. Application may be canceled and / or water service discontinued by the utility for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresentation in the application as to the property or fixtures to be supplied or use to be made of water.

b. Failure to report to the utility addition to the property or fixtures to the supplies or additional use to be made of water.

c. Resale or giving away of water.

d. Waste or misuse of water due to improper or imperfect service pipes, and / or fixtures, or failure to keep same in suitable state of repair.

e. Tampering with meter, meter seal, service or valves, or permitting such tampering by others.

f. Connection, cross-connection, or permitting same, of any separate water supply to

premises which receive water from the utility.

g. Non-payment of bills.

5. There shall be two (2) classes of permit applications; one for residential service, and the second for commercial and industrial service. In either case, the owner or the owner's agent shall make application. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of one hundred dollars (\$100) for a residential service connection and two hundred dollars (\$200) for a commercial or industrial service connection shall be paid to the utility at the time the permit application is filed.

6-3-2 USE OF PUBLIC WATER REQUIRED.

1. It shall be unlawful for any person to connect any private or semi-private water source or well in any manner on public or private property within the city or in any area under the jurisdiction of said city to the public water system.

2. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner any polluted water or wastewater through cross-connecting another source of water to the public water system.

3. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city, or in any area under the jurisdiction of said city, and abutting on any street, alley, or right-of-way in which there is located a public water system of the city, is hereby required at the owner's expense to install suitable facilities therein, and to connect such facilities directly with the public water system in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public water is abutting any street, alley, or right-of-way adjacent to the property being served by the public water system.

6-3-3 CUSTOMER SERVICE PROCESS

1. The utility reserves the right to request a nominal sum be placed on deposit with the utility for purpose of establishing or maintaining any customer's credit.

2. All meters shall be installed, maintained and renewed by and at the expense of the utility, and the utility reserves the right to determine the size and type of meter used.

3. Upon the written request of any customer, the meter serving said customer shall be tested by the utility. Such test will be made without charge to the customer if the meter has not been tested within twelve (12) months preceding the requested test; otherwise a charge of one hundred dollars (\$100) will be made and then only if the test indicates meter accuracy within the limits of 2%.

4. Where a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed for billing purpose will be based upon an average of the prior six (6) months

consumption, and the conditions of water service prevailing during the period in which the meter failed to register.

5. Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being one hundred dollars (\$100); and the amount to be determined by the utility depending upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one and the same meter.

Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench and all use of water by other than applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice.

6. The utility shall make all reasonable efforts to eliminate interruption of service, and when such interruptions occur will endeavor to reestablish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.

#### 6-3-4 SERVICE DISCONTINUANCE PROCESS

1. Any customer desiring to discontinue the water service to the premises for any reason must give notice of discontinuance in writing at the business office of the waterworks system, otherwise, the customer shall remain liable for all water used and service rendered by the utility until said notice is received and approved by the utility.

2. Where the water supply to a customer has been discontinued for non-payment of delinquent bills, a charge of fifty dollars (\$50) during hours and one hundred dollars (\$100) after hours will be made for reconnection of water service, but the reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the utility have been paid.

#### 6-3-5 PROTECTION FROM DAMAGE

1. The utility shall in no event be held responsible for claim made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruption of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption of service which in the opinion of the utility may be deemed necessary.

2. Customers having boilers and / or pressure vessels receiving a supply of water from the utility must have a check valve on the water supply line and a vacuum valve on the streamline to prevent collapse in case the water supply from the utility is discontinued or interrupted for any reason, with or without notice.

3. The premises receiving a supply of water and all service lines, meter and fixtures, including any and all fixtures within the said premises shall at all reasonable hours be subject to inspection by duly authorized employees of the utility.

4. Special terms and conditions may be made where water is used by the utility or community for public purposes such as fire extinguishment, public parks, etc.

5. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the waterworks or appurtenances thereof without first obtaining a written permit. Before a permit may be issued, the person applying for such permit shall have executed unto the municipality and deposited with the Clerk / Secretary a corporate surety in the sum of the cost incurred conditioned that the person will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances pertaining to plumbing, waterworks or appurtenances. This bond shall state that the person will indemnify and save harmless the utility and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on the owner's part in connection with plumbing, waterworks or appurtenances as prescribed in this ordinance.

6. Such bond shall remain in force and must be executed for a period of minimum of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

7. Service lines and appurtenances shall be constructed in accordance with the State Plumbing Code.

8. If any loss or damage to the property of the utility or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of a customer, member of the customer's household, customer's agent or employee, the cost of the necessary repairs or replacements shall be paid by the customer to the utility and any liability otherwise resulting shall be that of the customer.

#### 6-3-6 POWERS AND AUTHORITY

1. Water furnished by the utility may be used for domestic consumption by the customer, members of the customer's household, and employees only. The customer shall not sell or give the water to any other person.

2. Each customer shall grant or convey, or shall cause to be granted or conveyed to the utility a permanent easement and right-of-way across any property owned or controlled by the customer wherever said easement or right-of-way is necessary for the utility water facilities and lines, so as to be able to furnish service to the customer.

3. The utility will construct extensions to its water lines to points within its service area but the utility shall not be required to make such installations unless the customer pays to the utility the

entire cost of the installation.

4. All line extensions shall be evidenced by a contract signed by the utility and the person advancing funds for said extensions, but each contract shall be null and void unless approved by the United States Department of Agriculture Rural Development and other governing bodies.

5. If refund of the advance is to be made, the following method shall apply: 20% of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed five years, provided that the aggregate payments do not exceed the total amount deposited.

6. No refund shall be made from any revenue received from any lines leading up to or beyond the particular line extension covered by contract. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the utility and such extension shall be the property of the utility and no other person shall have any right, title or interest therein.

7. The utility may refuse service to persons, not presently customers, when in the opinion of the utility the capacity of the facilities will not permit such services.

#### 6-3-7 PENALTIES

1. These rules may be changed or amended.

2. Complaints may be made to the operator of the system and may be appealed to the Council/Board within ten (10) days.

**Page 131 - Reserved for Future Use**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 4 REGULATIONS GOVERNING MUNICIPAL WELL FUND CHARGES AND SERVICES

6-4-1	Purpose	6-4-3	License Required
6-4-2	Enforcement	6-4-4	Disposition of Fees and Charges

6-4-1 PURPOSE. The purpose of this ordinance is to prescribe the procedure to be followed in making repairs and maintenance to the city water wells and to establish regulations governing the repairs and maintenance done therefrom.

6-4-2 ENFORCEMENT. The maintenance superintendent shall supervise the repairs and maintenance to the city wells and enforce all regulations pertaining to well repairs and maintenance in this city according to this ordinance. This ordinance shall apply to all maintenance and repair to existing wells as well as any new wells or additional well maintenance. The maintenance superintendent may make such regulations as are necessary and that do not conflict with this ordinance.

6-4-3 LICENSE REQUIRED. All repairs or maintenance to the city wells shall be made by licensed contractors. The maintenance superintendent shall have the power to suspend the license of any contractor for violation of any of the provisions of this ordinance; a suspension, unless revoked, shall continue until the next regular meeting of the city council. The maintenance superintendent shall notify the contractor immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the council meeting at which the contractor will be granted a hearing. At this council meeting the maintenance superintendent shall make written report to the council stating reasons for the suspension, and the council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

6-4-4 DISPOSITION OF FEES AND CHARGES. All money received under this ordinance shall be paid over to the City Clerk-treasurer not later than the fifteenth of the month following the month in which it was received, and a written report of the amount and source of the fees and charges.

(Ord. 220-20A, Passed April 5, 2000)



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5 UTILITIES - REFUSE COLLECTION

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

6-5-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.

2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.

3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.

4. "Yard Waste". Means organic debris (e.g.: grass clippings, leaves, tree limbs, bark, branches, flowers, etc.) which is produced as part of yard and garden development and maintenance.  
(Ord. 211, Passed August 1, 1990)

5. "Recyclable materials" means aluminum cans, newspapers, glass, metal, plastics and other materials designated by the City of Delmar.

6. "Can". Means a container for the storage of garbage or rubbish, which is:

- a. Provided with a handle and tight fitting cover.
- b. Made of non-corrosive material.
- c. Water-tight.
- d. With a capacity of no more than thirty-five (35) gallons.

6-5-2 DUTY TO PROVIDE CANS. Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. They shall be in a position readily accessible to the collector.

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

6-5-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.

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

6-5-4 STORAGE. All garbage must be drained and that accumulated from dwellings must be wrapped in paper and placed in a can. All rubbish shall be placed in a can except as otherwise provided.

6-5-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-5-6 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk.

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

6-5-7 BURNING OF REFUSE.

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

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

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

6-5-8 SEPARATION OF YARD WASTE. All yard waste shall be separated by the owner or occupant from all garbage and refuse accumulated on the premises.

(Ord. 211, Passed August 1, 1990)

6-5-9 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-5-10 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 UTILITIES - BILLING CHARGES

6-6-1	Utility Defined	6-6-10	Water Application Process
6-6-2	Districts	6-6-11	Water Accounting Process
6-6-3	Disposition of Fees and Charges	6-6-13	Water Shut-Off Valve
6-6-4	Billing, Penalty	6-6-14	Refuse Collection Rates
6-6-5	Discontinuing Services, Fees	6-6-15	Rate of Sewer Rent and Manner of Payment
6-6-6	Residential Rental Property		
6-6-7	Customer Guarantee Deposits	6-6-16	Determination and Payment of Sewer Rent From Premises With Private Water Systems
6-6-8	Water System Rates		
6-6-9	Water Billing Process		

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

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

6-6-3 DISPOSITION OF FEES AND CHARGES. All money received under this ordinance shall be paid over to the City Clerk-treasurer not later than the fifteenth of the month following the month in which it was received, and a written report of the amount and source of fees and charges.

Flat rate for well fund will increase from \$7.50 per month to \$10.00 per month each customer of the City of Delmar.

(Ord. 220.2A, Passed March 25, 2003)

6-6-4 BILLING, PENALTY. Bills are mailed out the last working day of the month. Utility bills shall be due on the fifteenth of the month following the period for which service is billed. Payment shall be made to the City Clerk-treasurer. Bills shall become delinquent after 3:00 on the fifteenth of the month in which due and a ten (10) percent penalty is added to the entire bill. Service will be disconnected if the bill is not paid within ten (10) days of the original due date.

(Amended during 2004 codification)

6-6-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

a. The City Clerk-treasurer shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk-treasurer by noon on the day preceding the scheduled shut-off date

or discontinuance of service."

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

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any City Ordinance, a fee shall be paid in the Office of the City Clerk of \$50.00 during regular business hours and \$100.00 other than regular business hours. The foregoing fee shall be in addition to the rates or charges then due and payable before such service is restored. If any such service charge is not paid within sixty (60) days from the date it first becomes due, the same shall constitute a lien upon the premises served by the city utility and said lien shall be collected in the same manner as taxes.

(Code of Iowa, Sec. 384.84(2))  
(Ord. 102-09, Passed May 7, 2009)  
(Ord. 105-10, Passed June 9, 2010)

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

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

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

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

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

6-6-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be one hundred dollars (\$100.00) for homeowners or one hundred fifty dollars

(\$150.00) for renters. Deposits of customers having established acceptable credit records for three (3) years shall have their deposit returned without interest. An occurrence of a bad payment record may be the occasion for the City Clerk-treasurer –administrator to require a new or larger deposit for the continuation of service.

(Code of Iowa, Sec. 384.84(1))  
(Amended during codification)

I have read and understand the above ordinance:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Person Responsible for the Account: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Please check one:

Homeowner \_\_\_\_\_ Renter: \_\_\_\_\_

<p>Renters Only:</p> <p>Landlord Name: _____</p> <p>Mailing Address: _____</p> <p>City, State, Zip Code: _____</p> <p>Phone Number: _____</p>
---

<p>For office use only: Account #: _____ Touch Read Serial #: _____ Meter reading: _____</p> <p>Date paid: _____ Deposit amount: _____ Cash: _____ Check: _____ Check #: _____</p> <p>Date of expected return: _____ Date of last delinquency: _____ Date of return: _____</p>
--

6-6-8 WATER SYSTEM RATES. There are hereby established water service rates for the use

of, and for the service supplied by, the City water utility as determined by the meter readings for the amount of water consumed. Meters are read between the sixteenth day and the twentieth day of each month. The monthly water service rates shall be as follows:

Up to 1,500 gallons per month-----\$31.50 per month  
Overage in excess of 1,500 gallons per month---\$6.30 per 1000 gallons  
(Amended during 2004 codification)  
(Ord. 102-09, Passed May 7, 2009)  
(Ord. 105-10, Passed June 9, 2010)

The foregoing water service rates shall be increased by five percent (5%) on the first day of July of each year unless such increase is waived or modified by resolution or ordinance of the City Council prior to the effective date of the increase.

There shall be a well fund fee of \$10.00 per month assessed to all properties within the City limits that are not hooked up to the City water utility.

(Ord. 102-09, Passed May 7, 2009)

Meters are read between the twenty-second and twenty-seventh of the month.

#### 6-6-9 WATER BILLING PROCESS.

1. The owner of the premises served and the occupant thereof and the user of the water service shall be jointly and severally liable for the water service provided said premises. A deposit of one hundred dollars (\$100.00) shall be required from homeowners and one hundred fifty (\$150) from renters. The deposit shall be applied to any bill for water service delinquent more than thirty (30) days. Upon disconnection of the water service, any balance of such deposit shall be returned to the applicant without interest.

(Amended during 2004 codification)

(Amended during 2011 codification)

2. It is hereby made the duty of the utility official designated by the Council/Board to render bills for water service and all other charges in connection therewith and to collect all moneys due therefrom.

6-6-10 WATER APPLICATION PROCESS. Applications for water service shall be filed with the utility upon a form to be supplied by the utility. The application shall state the name of the applicant and the premises to be served. Applications filed after the commencement of the operation of the water system shall be accompanied by a fee of twenty-five dollars (\$25.00), payable to the utility for the connection charge.

(Amended during 2004 codification)

#### 6-6-11 WATER ACCOUNTING PROCESS.

1. All revenues and moneys derived from the operation of the water system shall be paid to and held by the utility separate and apart from all other funds of the utility and all of said sums and

all other funds and moneys incident to the operation of said system, as may be delivered to the utility, shall be deposited in a separate fund designated the "Waterworks Revenue Fund," and the Council / Board shall administer said fund in the manner provided by the Code of Iowa and all other laws pertaining thereto.

2. The utility shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the water system and at regular annual intervals the Council/Board shall cause to be made an audit by an independent audit concern or the State of Iowa of the books to show the receipts and disbursements of the water system. The utility shall be required annually to prepare a budget of the water system to show the required revenues and expenses. If necessary, user charge rates will be adjusted to produce adequate income to retire the indebtedness, meet the operation, maintenance and replacement needs and establish required reserves.

6-6-12 WATER SHUT-OFF VALVE. In the event that the shut-off valve becomes unworkable or broken by the property owner, the expense of replacement shall be at the property owner's expense. The property owner has thirty (30) days in which to replace or repair the shut-off valve from the date of notice from the city.

6-6-13 REFUSE COLLECTION RATES. There shall be collected by the City for service of collecting garbage, refuse, solid waste and recyclable materials, for the following mandatory fees; collected monthly following the period for which the fees are due from each residential, commercial or business property. The fees shall be paid by the owner of the property unless the occupant shall have paid the fee within the sixty (60) days of due date. The mandatory fees are as follows:

Residential Property	\$13.00
Senior Citizens	\$13.00
Apartment Complex	\$13.00 per unit
Business (no dumpster)	\$15.00
Commercial (dumpster 1 ½ yd)	\$38.50
School (dumpster 2 yd)	\$90.00

These rates are subject to change on an annual basis due to increases in operating costs.  
 (Ord. 216.3-2-1, Passed August 11, 2004)  
 (Ord. 102-09, Passed May 7, 2009)  
 (Ord. 105-10, Passed June 9, 2010)

6-6-14 RATE OF SEWER RENT AND MANNER OF PAYMENT. There shall be and is hereby established a sewer service charge for the use of and for the service charge for the use of and for the services supplied by the municipal sanitary sewer system based upon the amount and rate of water consumed as follows:

<u>RATE</u>	Each 1000 gallons after first 3000 gallons
First 3000 gallons or lessor amount	
Per month	



SEWER SERVICE CHARGE

\$1.05

\$13.65 per month

In no case shall the minimum service charge be less than \$13.65 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility.

Customers of the sanitary sewer facility, who are not also customers of the municipal water system, shall pay a minimum charge of \$13.65 per month.

Services to industrial establishments may be by contract if the municipality deems this to be in its best interest.

The foregoing sewer service rates shall be increased by five percent (5%) on the first day of July of each year unless such increase is waived or modified by resolution ordinance of the City Council prior to the effective date of the increase.

(Ord. Passed March 25, 2003)  
(Amended during 2004 codification)  
(Ord. 105-10, Passed June 9, 2010)

The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk-treasurer, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made.

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

6-6-15 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-10 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-10.

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

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

**Pages 142 to 143 – Reserved for Future Use**



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 7 STREET CUTS AND EXCAVATIONS

6-7-1	Excavation Permit Required	6-7-4	Safety Measures
6-7-2	Application for Permit	6-7-5	Backfilling and Restoration
6-7-3	Permit Fees	6-7-6	Rules and Regulations

6-7-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk-treasurer.

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

6-7-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk-treasurer for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk-treasurer waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk-treasurer may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-7-3 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of \$15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained.

6-7-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Sheriff the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the

requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-7-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the City is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-7-6 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 SUBDIVISION REGULATIONS

#### GENERAL PROVISIONS

- 6-8-1 Short Title
- 6-8-2 Purpose
- 6-8-3 Application
- 6-8-4 Recording of Plat

#### DEFINITIONS

- 6-8-5 Terms Defined

#### IMPROVEMENTS

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

#### MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

- 6-8-11 Minimum Standards

#### PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

- 6-8-12 Procedures and Submission Requirements for Plats
- 6-8-13 Pre-Application Conference
- 6-8-14 Sketch Plan Required
- 6-8-15 Presentation to Planning Commission or City Council
- 6-8-16 Subdivision Classified
- 6-8-17 Plats Required
- 6-8-18 Requirements of Preliminary Plat
- 6-8-19 Referral of Preliminary Plat
- 6-8-20 Action by the City Engineer
- 6-8-21 Action by the Governing Body
- 6-8-22 Final Plat
- 6-8-23 Referral Final Plat
- 6-8-24 Requirements of the Final Plat
- 6-8-25 Final Plat Attachments
- 6-8-26 Action by the Governing Body

#### OTHER PROVISIONS

- 6-8-27 Variances
- 6-8-28 Chain Subdividing
- 6-8-29 Extraterritorial Review Agreement

#### GENERAL PROVISIONS

6-8-1 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of Delmar, Iowa, Subdivision Control Ordinance."

6-8-2 **PURPOSE.** The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Delmar, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

6-8-3 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations (August 6, 1980) into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City or:

- within the described boundaries as follows:

shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

6-8-4 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Delmar, Iowa, or (choose one):

(list area boundaries), as recorded in the office of the County Recorder and filed with the County Auditor,

as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

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

(Code of Iowa, Sec. 354.9)

## DEFINITIONS

6-8-5 TERMS DEFINED. For the purposes of this Ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

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

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

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

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

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

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

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

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

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

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the governing body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(4))

10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.

(Code of Iowa, Sec. 354.2(5) and 355.1(2))

12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.

14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(6))



16. "Governing Body" means the City Council of the City of Delmar, Iowa.  
(Code of Iowa, Sec. 354.2(7))

17. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(8) and 355.1(3))

18. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.

19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(9))

20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

22. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(10))

23. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(11))

24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before October 6, 2004.

25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(12))

27. "Performance Bond" means a surety bond or cash deposit made out to the City of Delmar, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.

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

(Code of Iowa, Sec. 354.2(13))

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

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

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

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

(Code of Iowa, Sec. 354.2(14) and 355.1(9))

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

(Code of Iowa, Sec. 354.2(15))

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

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

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

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

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

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

40. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of October 6, 2004 into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land

taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (October 6, 2004), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(16) and 355.1(10))

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

(Code of Iowa, Sec. 354.2(17) and 355.1(11))

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

(Code of Iowa, Sec. 354.2(18) and 355.1(12))

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

(Code of Iowa, Sec. 354.2(19))

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

## IMPROVEMENTS

6-8-6 **IMPROVEMENTS REQUIRED.** The subdivider shall, at said subdivider's expense, install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

6-8-7 **INSPECTION.** All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

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

(Code of Iowa, Sec. 364.1)

1. **Streets and alleys.** All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the governing body after receiving the report and recommendations of the maintenance department.

2. **Roadways.** All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require.

3. **Curb and Gutter.** Curb and gutter shall be required on all streets. All curb and gutter shall

be constructed to the grade approved by the governing body after receiving the report and recommendations of the maintenance department. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks shall be required. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the maintenance department, and comply with the Americans with Disabilities Guidelines (ADAAG).

(Amended during codification)

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures and supervision.

6. Sewers.

a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Health and the construction subject to the supervision of the maintenance department.

b. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.

c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the governing body and to the supervision of the maintenance department.

6-8-9 COMPLETION OF IMPROVEMENTS. Before the governing body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. Before passage of said resolution of acceptance, the maintenance department shall report that said improvements meet all City specifications and Ordinances or other City requirements, and the agreements between subdivider and the City.

6-8-10 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the governing body guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS.

6-8-11 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to existing streets.

a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

2. Acreage subdivisions.

a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

3. Local streets.

a. Local streets shall be so planned as to discourage through traffic.

b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

4. Frontage streets.

a. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford

separation of through and local traffic.

b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

6. Street Geometrics.

a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the governing body shall determine for special cases.

7. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.

8. Street names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body.

9. Street grades.

a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

b. No street grade shall be less than one-half (1/2) of one (1) percent.

10. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

b. The width of an alley shall be twenty (20) feet.

c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

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

11. Blocks.

a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Minimum lot dimensions and sizes.

(1) Residential lots where not served by public sewer shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra ten (10) feet of width to permit

appropriate building setback from and orientation to both streets.

c. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.

14. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

15. Plat markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the governing body. The markers shall be of such material, size and length as may be approved by the governing body.

## PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

6-8-12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the governing body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

6-8-13 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Clerk-treasurer. The conference should be attended by the City Clerk-treasurer and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

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



6-8-14 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

6-8-15 PRESENTATION TO PLANNING COMMISSION OR CITY COUNCIL. The subdivider may present the sketch plan to the governing body for review, prior to incurring significant costs preparing the preliminary or final plat.

6-8-16 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

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

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

6-8-17 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

6-8-18 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk-treasurer four (4) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater, unless the City Council waives this requirement.

6-8-19 REFERRAL OF PRELIMINARY PLAT. The City Clerk-treasurer shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the governing body.

6-8-20 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the Code of Iowa and the laws and regulations of the City of Delmar, Iowa, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City engineer's findings in duplicate to the governing body together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

6-8-21 ACTION BY THE GOVERNING BODY. The governing body shall, upon receiving the report of the City Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the governing body shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the governing body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.

4. The "Conditional Approval" by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

6-8-22 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-8-23 REFERRAL FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the governing body prepare and file four (4) copies of the final plat and other required documents with the City Clerk-treasurer as hereafter set forth, and upon the subdivider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the governing body. Upon receipt of the final plat and other required documents, the City Clerk-treasurer shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval.

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

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

6-8-24 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of chapter 355, Code of Iowa, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with permanent ink on a reproducible tracing material. It shall show:

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive.

Street names may be required to conform to the City Plan.

4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.

5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.

6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.

6-8-25 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

(Code of Iowa, Sec. 354.6(2))

2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

(Code of Iowa, Sec. 354.11(1))

3. A complete abstract of title and an Attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

4. A certificate from the County Treasurer that the subdivision land is free from taxes.

5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.

6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

7. A certificate of dedication of streets and other public property.

(Code of Iowa, Sec. 354.11(1))

8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

9. Resolution and certificate for approval by the governing body and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11(4))

10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

11. A certificate by the City Clerk-treasurer or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk-treasurer, or that the governing body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.  
(Code of Iowa, Sec. 354.11(2) and 354.12)

6-8-26 ACTION BY THE GOVERNING BODY. Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk-treasurer as stated in 6-7-23 the governing body shall either approve or disapprove the final plat.

(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the Governing Body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this Ordinance, the governing body shall accept the same.

3. The passage of a resolution by the governing body accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Clinton, County, Iowa, and shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

## OTHER PROVISIONS

6-8-27 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the governing body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Ordinance. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Governing Body.

6-8-28 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the (choose one)-(zoning or restricted residence district) Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

**(Optional provision based on section 6-8-3 and 6-8-4).**

6-8-29 EXTRATERRITORIAL REVIEW AGREEMENT.

The City of Delmar may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of the subdivision in the extraterritorial area. Such resolution shall be certified and recorded with the plat.

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

(Code of Iowa, Sec. 354.8 and 354.9)

**Pages 163 to 165 - Reserved for Future Use**







## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 SIDEWALK REGULATIONS

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

6-9-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-9-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

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

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-9-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk-treasurer shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

6-9-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

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

6-9-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

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

(Code of Iowa, Sec. 364.14)

6-9-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-9-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor or Administrator shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor or Administrator shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. The City Clerk-treasurer shall be directed to certify the non-cement costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa. The City will pay for the cement, while the homeowner will pay for tear-out, frame-up and fill.

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

(Amended during 2011 codification)

6-9-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

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

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the City Personnel.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the City Personnel on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

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

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

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

6-9-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk-treasurer. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Maintenance Manager. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk-treasurer. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-9-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner

shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-9-12 **BARRICADES AND WARNING LIGHTS.** Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-9-13 **INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

6-9-14 **SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR.** The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-9-15 **NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS.** When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk-treasurer shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-9-16 **HEARING AND ASSESSMENT.** At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-9-17 **BILLING AND CERTIFYING TO COUNTY.** Thirty (30) days after the Council's decision, the City Clerk-treasurer shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council

determined the final amounts.

(Code of Iowa, Sec. 384.60)

6-9-18 ADAAG COMPLIANCE. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

(Amended during Codification)

**Page 172 - Reserved for Future Use**



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 10 RESTRICTED RESIDENCE DISTRICT

6-10-1	Purpose	6-10-10	Permit Fees
6-10-2	Definitions	6-10-11	Fences
6-10-3	District Described	6-10-12	Application
6-10-4	Buildings, Structures, and Fences Permitted	6-10-13	Approval of Plans
6-10-5	Rules and Regulations	6-10-14	Variations
6-10-6	Set Back	6-10-15	Enforcement of Provisions
6-10-7	Buildings Requiring Special Permits to Locate Within Restricted Districts	6-10-16	Permit Report
6-10-8	Special Permits	6-10-17	Permit Expiration
6-10-9	Protest	6-10-18	Action to Abate
		6-10-19	Procedure for Requesting Variance

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

(Ord. 216.2, Passed December 4, 1996)

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

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

(Ord. 215, Passed November 1, 1995)

2. "School" is a building used for educational purposes, public or private, that is regulated by the state department of public instruction as to curriculum.

3 "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.

4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a tool or "summer" house not

exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened.

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

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

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

All property lying within the corporate limits of the City of Delmar, Iowa.

6-10-4 BUILDINGS, STRUCTURES, AND FENCES PERMITTED. No buildings, structures or fences shall be hereafter erected, constructed, reconstructed, altered, repaired or occupied within said District without first securing from the City Council a permit therefore.

(Ord. 216-2, Passed December 4, 1996)

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

(Ord. 216-2, Passed December 4, 1996)

6-10-6 SET BACK. No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty (20) feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line. All buildings to be used for residential purposes shall be placed on lots of no less than 7,140 square feet.

No residence or other building exempted from permit shall be located in the restricted district closer than a distance equal to ten percent (10%) of the width of the respective lot to the side lot lines, and no accessory building closer than a four (4) foot line, regardless of the compliance of the main foundation with this set back rule.

Any other building granted a permit by Council shall be placed at least as far from side lot lines as the residential, school, and church related buildings. All set backs shall be measured from the main foundation line.

1. Residence Foundations. All residences shall require a permanent wall foundation system of either cement block or poured concrete along with footings of no less than 42" deep below ground

level. The foundation shall be in full compliance with the requirements of the residence's manufacturer, as well as all applicable laws. All foundations shall be constructed in such a manner so as to insure their visual compatibility with surrounding residential structures.

(Ord. passed January 7, 1998)

6-10-7 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the restricted residential district only if it appears that said use and the type of building will be compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement of a building or structure that would otherwise be violative of Section 6-9-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

6-10-8 SPECIAL PERMITS. A written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City except for buildings for residences, residential accessory use, schools, churches, and church schools. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-11-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk-treasurer at least seven (7) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit.

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

6-10-10 PERMIT FEES. The fees for building permits in the City of Delmar, Iowa, shall be as follows:

1. Commercial building, new construction or addition to existing commercial building shall be \$25.00.
2. Single family residence, new construction, including garage, shall be \$10.00.
3. Multiple family living units, new construction, including garage, shall be \$10.00 per unit.

4. Garage (detached or attached) or carport, new construction shall be \$10.00. Garage maximum size shall be 1,080 square feet, and the side walls of any such garage shall not exceed 8 feet in height.

(Ord. 6-10-10, Passed September 6, 2006)

5. Storage sheds/utility buildings under 100 square feet shall be \$10.00.

6. Decks shall be \$10.00.

7. Existing residential building addition or moving of building shall be \$10.00.

8. Fence of either residential or commercial, new construction, addition or reconstruction shall be \$10.00.

9. The permit fee for any other form of construction, not specifically set forth within this Ordinance, shall be as reasonably determined and set by the City Council.

(Ord. 216-2, Passed December 4, 1996)

6-10-11 FENCES. All fences, built, constructed or reconstructed, within the City of Delmar, Iowa, shall require a building permit. A fence shall not exceed six (6) feet in height and shall not be constructed of salvaged materials. The material to be used in the construction or reconstruction of the building of any fence must first be approved by the City Council and/or the Permit Review and Inspection Committee, as may be appointed by the City Council. No fence shall be built where it shall cause a visibility problem with driveways, streets and alleys.

Fences shall not protrude past the front of an existing dwelling. The owner of a fence shall provide a two (2) foot setback from adjoining property for the purpose of fence maintenance access. (If the property line cannot be established, a survey may be required before a building permit is granted. The cost of any such survey is the responsibility of the individual building the fence.) Any form of hedges or vegetation grown for use as a boundary line or fence must comply with the visibility and guidelines of this Ordinance, but no building permit fees shall be required.

(Ord. 216-2, Passed December 4, 1996)

6-10-12 APPLICATION. Application for building permits, except as specifically set forth in the preceding Section 8 of this Ordinance, shall be accompanied by plans and specifications, in duplicate, showing the work to be done. Such plans shall be certified by the signature of either the owner of the premises or by the architect or contractor in charge of the operation.

(Ord. 216-2, Passed December 4, 1996)

6-10-13 APPROVAL OF PLANS. The application for the building permit, with plans, shall be referred to the City Clerk-treasurer who shall contact the Permit Review and Inspection Committee, as may be appointed by the City Council. If no such committee exists, it shall be given to the City Council to determine whether the proposed construction, location and alternation will comply with the ordinance provisions relative thereto. Upon Committee/Council approval, the City Clerk-treasurer shall retain one set of the plans and issue the building permit to the applicant after signature by the Mayor.

(Ord. 216-2, Passed December 4, 1996)

6-10-14 VARIATIONS. It shall be unlawful to vary materially from the submitted plans and specifications unless such variations are submitted in an amended plan to the City Council for approval.

(Ord. 216-2, Passed December 4, 1996)

6-10-15 ENFORCEMENT OF PROVISIONS. The Mayor or such other municipal officer, as may be designated by the Mayor, shall make, or cause to be made, such inspections as are necessary to enforce the provisions of this Ordinance, and to make any tests or examinations of the material or methods to be used for the purpose of determining compliance with the provisions of this Ordinance.

(Ord. 216-2, Passed December 4, 1996)

6-10-16 PERMIT REPORT. The City Clerk-treasurer will provide a report of permits issued since the previous Meeting at each regular meeting of the City Council.

(Ord. 216-2, Passed December 4, 1996)

6-10-17 PERMIT EXPIRATION. All building permits will automatically expire twelve (12) months from the date of issue.

(Ord. 216-2, Passed December 4, 1996)

6-10-18 ACTION TO ABATE. Any building, structure or fence erected, constructed, reconstructed, altered or repaired in violation of the provisions of this Ordinance shall be deemed unlawful and a nuisance, and it shall be abated by action in court. Such action for abatement shall be prosecuted in the name of the municipality.

(Ord. 216-2, Passed December 4, 1996)

6-10-19 PROCEDURE FOR REQUESTING VARIANCE.

1. Upon receipt and consideration of an application for a building permit under §6-10-13, which does not comply with the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District, the City Council shall either deny said application for a building permit or defer action on said application for a building permit pending receipt of the applicant's written request for a variance from the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District.

2. Upon receipt of a written application for a building permit and a written request for a variance from the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District, the City Clerk shall serve upon each of the resident real estate owners in the Restricted Residence District within six hundred (600) feet of the proposed building, structure, house, garage, carport, living units, shed, deck, fence or any other form of construction (the "affected resident real estate owners"), by regular US mail, postage prepaid to the last known address of the affected resident real estate owners, a written notice in a form approved by the City Council, setting forth the name and address of the applicant, the proposed location of the proposed form of construction, basic information relevant to the requested variance from the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District, a copy of the

plans and specifications submitted by the applicant, and a place to state whether the affected resident real estate owner(s) object(s) to, or approves of, the requested variance. The written notice shall provide the affected resident real estate owners with seven (7) days in which to return the written notice to the Office of the City Clerk stating whether the affected resident real estate owner(s) object(s) to, or approves of, the requested variance.

3. The application for a building permit and written request for a variance from the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District shall not be acted upon by the City Council until notice thereof has been posted on the front door of the City Hall at least four (4) days prior to the meeting at which final action is taken to grant or deny the application for a building permit and request for a variance.

4. No application for a building permit and request for a variance from the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District shall be granted when sixty percent (60%) of the resident real estate owners in the Restricted Residence District within six hundred (600) feet of the proposed building or other form of construction object thereto, except by a unanimous vote of all the members of the City Council present and comprising a quorum at the meeting upon which such action is taken.

5. All costs incurred by the City of Delmar related to the request for a variance from the relevant provisions of Title VI Physical Environment, Chapter 10 Restricted Residence District shall be assessed to the applicant. The City Clerk shall send a notice of assessment to the applicant and, if the assessed costs are not paid within thirty (30) days of the date of the notice of assessment, said costs shall be a lien against the real property owned by the applicant in the Restricted Residence District.

(Ord. 6-10-19, Passed September 6, 2006)

**Page 179 - Reserved for Future Use**

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 11 FIRE DISTRICT**

#### **6-11-1 District Established**

6-11-1 **DISTRICT ESTABLISHED.** That a fire district be established to include 60 feet back on each side of Main Street and from the Main Line of the CMSTP&P Ry. Co. to the Branch Line of eh CMSTP&P Ry. Co. that no buildings or additions to any buildings shall be erected fronting any of the streets in said fire district unless the outer walls be made of brick and mortar or stone and mortar or steel and the roof of said building shall be covered by good fire proof roofing.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 DELMAR CABLE TELEVISION REGULATORY ORDINANCE

6-12-1	Purpose	6-12-13	Construction Schedule
6-12-2	Definitions	6-12-14	Line Extension
6-12-3	Findings – Granting of Franchise	6-12-15	City Rights
6-12-4	Compliance – Required Generally	6-12-16	Publication Costs and Legal Fees
6-12-5	Compliance – National Electrical Safety Code	6-12-17	Payments to the Town
6-12-6	Compliance – FCC Rules and Regulations	6-12-18	Rates and Charges – Designated
6-12-7	Modification of FCC Rules	6-12-19	Rates and Charges – Change
6-12-8	Transfer	6-12-20	Recordkeeping
6-12-9	Company Rules and Regulations	6-12-21	Service Procedures
6-12-10	Franchise – Term	6-12-22	Protection of Privacy
6-12-11	Franchise – Renewal	6-12-23	Program Content Restrictions
6-12-12	System Construction, Maintenance and Procedures	6-12-24	Liability and Indemnification
		6-12-25	Activities Prohibited

#### 6-12-1 PURPOSE.

1. The purpose of this chapter is to provide regulatory provisions of the cable television system in the city of Delmar.

2. The ordinance codified in this chapter shall be known and may be cited as the "Delmar Cable Television Regulatory Ordinance."

6-12-2 DEFINITIONS. Definitions. For the purpose of this Ordinance the following terms, phrases, words and derivations shall have the meaning given in this section.

1. "Company" means Valley Cable Systems, Inc. an Iowa Corporation with its offices in Huxley, Iowa the grantee of rights under the regulatory ordinance codified in this ordinance.

2. "Federal Communications Commission" or "FCC" means that federal agency constituted by the Communications Act of 1934 and as amended.

3. "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross subscriber revenues shall not include any revenues received:

a. As reimbursement of expense in the operation of any access channels;

- b. As advertising payments;
- c. From the leasing of cable channels;
- d. From programs for which a per-channel, per-program, or tier charge is made; and

e. From furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installments.

4. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

5. "System" means the lines, fixtures, equipment, attachments and appurtenances there to which are used in the construction, operation and maintenance of the community antenna television system authorized in this chapter.

6-12-3 FINDINGS—GRANTING OF FRANCHISE. The regulatory ordinance codified in this chapter which grants to the company the nonexclusive right to construct, operate and maintain a cable television system in the City, was passed and adopted by the City Council after a full, open and public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment. Therefore, the City grants to the company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, among, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, for poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, data, telephone and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes set forth in this chapter.

6-12-4 COMPLIANCE—REQUIRED GENERALLY. The company shall, at all times during the life of the regulatory ordinance be subject to all lawful exercise of the police power by the City and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and in full compliance with all applicable rules and regulations of the Federal Communications Commission, the City or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this chapter.

6-12-5 COMPLIANCE—NATIONAL ELECTRICAL SAFETY CODE. All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code.

6-12-6 COMPLIANCE—FCC RULES AND REGULATIONS. The company shall, at all times, comply with the rules and regulations of the FCC governing CATV operations.

6-12-7 MODIFICATION OF FCC RULES. Consistent with the requirements of Rule 76.31 (a) (6) of the FCC, any modification of Rule, 76.31 resulting from amendment thereto by the FCC and shall automatically be incorporated in this chapter by specific amendments thereto by lawful action of the City Council within one year from the effective date of the FCC's amendment or at the time of renewal of the ordinance codified in this chapter, whichever occurs first.

6-12-8 TRANSFER. The Company shall not sell or transfer its system to another, nor transfer any rights under this chapter to another without written notice and approval by the City; provided, that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the City an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this chapter and agreeing to perform all conditions thereof. No consent by the City Board shall be required for a transfer in trust, mortgage, or other instrument of hypothecation to secure an indebtedness of the Company.

6-12-9 COMPANY RULES AND REGULATIONS. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers.

6-12-10 FRANCHISE—TERM. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers.

6-12-11 FRANCHISE—RENEWAL. The company shall be a party to any such proceedings and any other proceedings. in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

6-12-12 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. Upon grant of the franchise codified in this chapter to construct and maintain a cable television system in the City, and in furtherance of the company's execution of contracts with public utility companies, the company may obtain right-of-way permits from appropriate state, county and federal officials necessary to cross highways or roads to supply main trunk lines from the company's receiving antennas. The company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the company.

2. In the event that the City elects to alter or change the grade of any street, alley or other public way, the company, upon notice by the City shall remove, relay or relocate its wires, cables

and other fixtures at the company's own expense.

3. The company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the company shall have the authority to require such payment in advance. The company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

4. The company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the City and to any public elementary or secondary school if located in the town where cable is already installed to service others. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

6-12-13 CONSTRUCTION SCHEDULE. The company shall accomplish significant construction at least twenty percent (20%) within one (1) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make cable service available to all residents of the City, subject to the line extension provisions of Section 14, within two (2) years after receiving above federal approval.

6-12-14 LINE EXTENSION.

1. It shall be the obligation of the company to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically noncompensatory to the company.

For purposes of determining compliance with the provisions of this section, the company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there are an average of forty-five (45) homes per each linear mile of new main cable construction.

2. In the event the requirements of subsection A are not met, extensions of service shall be required only on a basis which is reasonable and compensatory to the company and it determined by the company.

6-12-15 CITY RIGHTS.

1. City Rules. The right is reserved by the City to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the state or the United States, or any FCC regulations.

2. Emergency. In the case of any emergency, the company shall, upon request of the City make available its facilities to the City for emergency use during the emergency period.

3. Liability. The City shall not be liable for any damage occurring to the property of the company caused by employees of the City in the performance of their duties. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be held liable for the failure of the company to be able to perform normal services due to other factors beyond the control of the City.

4. No Property Right. Nothing in this Ordinance shall grant to the company any right of property in the City-owned property.

5. Construction Approval by City. The City shall have the right to inspect the construction, operation and maintenance of the system by the company to insure the proper performance of the terms of the regulatory ordinance.

6. Correction of Defects. In the event the company should violate any of the terms of the regulatory ordinance codified in this chapter, the City's shall immediately give to the company sixty (60) day's written notice to correct such violation and in the event the company does not make such correction within sixty (60) days from the receipt of such written notice, the City may make such correction itself and charge the cost of same to the company, and the company shall pay such charges within thirty (30) days.

6-12-16 PUBLICATION COSTS AND LEGAL FEES. The company shall assume the costs of the publication of the ordinance codified in this chapter if such publication is required by law. A bill for publication costs shall be presented to the company by the appropriate Town officials upon the company's filing of its acceptance of the ordinance codified in this chapter and the said publication costs shall be paid at that time by the company. The Town shall assume the costs of the Town Attorney and associated legal fees.

#### 6-12-17 PAYMENTS TO THE TOWN.

1. The company shall, commencing one (1) year from the date of the first service, and during each year of operation under this chapter, pay to the Town three percent (3%) of the annual gross subscriber revenues received by the company for regular monthly cable television services rendered to customers located within the Town. At the time of this annual payment, the company shall furnish the Town with an operating report showing the company's annual gross subscriber revenues during the preceding year.

2. All payments as required by the company to the Town shall be made semi-annually and shall be due forty-five (45) days after the close of the six (6) month period.

#### 6-12-18 RATES AND CHARGES—DESIGNATED.

1. Except as otherwise provided the grantee shall have the right, privilege and authority to charge the rates and charges fixed in this section to its subscribers for its services.

2. At system turnon single-user rates and charges may be as follows: Description:

Installation – Not to exceed \$25.00 per standard installation.

Basic Service Charge--Initial Outlet-Not to exceed \$12.00 monthly.

Basic Service Charge--Additional Outlet (s) Each - Not to exceed \$4.00 monthly.

3. Multi-user rates and charges may be negotiated between the grantee and the subscriber, if computed on the basis of single-user rates and charges.

4. In addition to the specified monthly service rate, the company may add to that rate, taxes or city fees imposed upon the company's gross subscriber revenues by city, state or federal governmental or legislative bodies and fees or charges imposed upon the company for the use and distribution of copyrighted program material.

5. Grantee may, at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/ or monthly service fees for promotional purposes.

#### 6-12-19 RATES AND CHARGES—CHANGE.

1. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, tiered channels, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the City.

2. In consideration for the services rendered to the subscribers, grantee may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the grantee's need to attract new capital and provide a reasonable return on invested capital. The Company, from time to time, may alter these rates at its discretion. The Company and the City agree that rates charged to subscribers are no longer subject to regulation by local government. The Federal Cable Communications Policy Act deregulated Cable TV.

6-12-20 RECORDKEEPING. The company shall keep accurate and current records, maps, and plans, and these items shall be made available for inspection by the City.

6-12-21 SERVICE PROCEDURES. During the term of this ordinance, a toll-free telephone number shall be provided by the Company to receive complaints regarding quality of service, equipment malfunctions and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, Monday through Friday.

1. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The company shall-keep a maintenance service log which will indicate the nature of each service complaint, and the date and time it was received.

2. The company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and toll-free telephone number of the company.

3. The equipment installed by the Company on behalf of the subscriber shall remain the property of the Company, and shall be subject to reasonable inspection and service by the Company at reasonable hours, and removal upon non-payment or termination of the service.

4. In the event that any subscriber shall fail to meet his obligations according to payment for service and to meet reasonable Company rules and regulations, the Company shall have the right to withhold or deny services to such subscriber.

#### 6-12-22 PROTECTION OF PRIVACY.

1. Grantee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.

2. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the cable television service without payment to the grantee for same. Such action shall be a simple misdemeanor.

6-12-23 PROGRAM CONTENT RESTRICTIONS. In addition to providing basic cable television service consisting of broadcast and automated signals, the company may offer subscribers optional services on a per-program or per-channel basis. However, the company shall not display X-rated motion pictures either as part of its basic cable or pay cable services.

6-12-24 LIABILITY AND INDEMNIFICATION. The company shall indemnify the City, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The City shall notify the company's representative within fifteen (15) days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the company.

1. Company shall carry Workmen's Compensation insurance with statutory limits, and Employers' Liability insurance with limits of not less than One Hundred Thousand Dollars (\$100,000.00), which shall cover all operations to be performed by company as a result of this ordinance.

2. The amounts of insurance to be carried for liability due to property damage shall be Five Hundred Thousand Dollars (\$500,000.00) as to any one occurrence and against liability due to injury or death of persons, Five Hundred Thousand Dollars (\$500,000.00) as to any one person and One Million Dollars (\$1,000,000.00) as to any one occurrence.

3. Company's Workmen's Compensation, Comprehensive General Liability and

Comprehensive Automobile Liability insurance shall be written by an insurance company authorized to do business in the state. Company agrees to furnish City with certificates of insurance of said policies.

#### 6-12-25 ACTIVITIES PROHIBITED.

1. The company shall not allow its cable or other operations to interfere with television reception of others or the operation of the various utilities serving the residents of the City.

a. No person, whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment or apparatus of the company, or commit any act with intent to cause such damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of the company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the company, or to obtain cable television or other communications service with intent to cheat or defraud the company of any lawful charge to which it is entitled.

b. Any person convicted of violating any provision of this section is subject to a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) for each offense. Each day's violation of this section shall be considered a separate offense.

(Ord. 210, Passed September 7, 1988)



**Page 189 - Reserved For Future Use**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 PUBLIC WATER SUPPLY WELLHEAD PROTECTION REGULATIONS

6-13-1	Definitions	6-13-7	Restrictions within the Zone of Sensitivity
6-13-2	Substances Regulated	6-13-8	Exceptions
6-13-3	Distance Required from Public Wells	6-13-9	Determination of Locations within Zones
6-13-4	Maps of Zones of Influence	6-13-10	Enforcement and Penalties
6-13-5	Restrictions within the Primary Protection Zone	6-13-11	Inspections
6-13-6	Restriction within the Secondary Protection Zone	6-13-12	Notice of Violation and Hearing
		6-13-13	Injunctive Relief

#### 6-13-1 DEFINITIONS.

1. "Aquifer" – A rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. "Alluvium" – Sand, clay, etc., gradually deposited by moving water.
3. "Contamination" -The presence of any harmful or deleterious substances in the water supply.
4. "Groundwater" - Subsurface water in the saturated zone from which wells, springs, and groundwater runoffs are supplied.
5. "Hazardous Substances" - Those materials specified in Section 128.03 of this ordinance.
6. "Flow System Boundaries" - A delineation criterion that uses groundwater divides, surface water bodies, or other hydrologic/physical features to delineate a Wellhead Protection Area.
7. "Labeled Quantities" - The maximum quantity of chemical as recommended on the label, for specific applications.
8. "Person" - Any natural person, individual, public or private corporation, firm association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
9. "Petroleum Product" - Fuels, (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, solvents, and other similar products.
10. "Pollution" - The presence of any substance (organic, inorganic, radiological, or biological)

or condition (temperature, pH, turbidity) in water that tends to degrade usefulness of the water.

11. "Potable Water" - Water that is satisfactory for drinking, culinary, and domestic purposes, meeting current drinking water standards.

12. "Primary Containment" - The first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

13. "Public Utility" - Any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.

14. "Secondary Containment" - The level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leak proof trays under containers, floor curing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

15. "Shallow Well" - A well located and constructed in such a manner that there is a continuous five-foot layer of low-permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.

16. "Time-Related Capture Zone" - The surface or subsurface area surrounding a pumping well(s) that will supply groundwater recharge to the well(s) within some specified period of time.

17. "Toxic Substance" - Any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption into the body.

18. "Transit" - The act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two (2) hours.

19. "Water Pollution" - The introduction in any surface or underground water, or any organic or inorganic deleterious substance in such quantities, proportions, and accumulations that are injurious to human, plant, animal, fish, and other aquatic life or property or that unreasonable interferes with the comfortable enjoyment of life or property or the conduct of business.

20. "Well" - A pit or hole sunk into the earth to reach a resource supply such as water.

21. "Well Field" - A tract of land that contains a number of wells for supplying water.

22. "Wellhead Protection Zones" - Zones delineated fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.

23. "Zone of Contribution" - The area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

6-13-2 SUBSTANCES REGULATED. The materials regulated by this ordinance shall consist of the following:

1. Substances listed in 40 CFR Section 302-4, List of Hazardous Substance and Reportable Quantities.

2. Substances listed by the Iowa Labor Commissioner pursuant to Section 898.12 of the Iowa Code (Hazardous Chemicals Risks-Right to Know).

3. Substances listed in 40 CFR Section 261, subparts A, B, C, and D, Federal Hazardous Waste List.

6-13-3 DISTANCE REQUIRED FROM PUBLIC WELLS. No structure, facility or prohibited land use designated in this chapter shall be located within the distances set forth in Table C from a public well. Table C can be found at the end of this chapter.

6-13-4 MAPS OF ZONES OF INFLUENCE.

1. Maps - Zone of Protection maps and any amendments thereto are incorporated by reference and made a part of this ordinance. These maps shall be on file at City Hall. At the time of adoption of this ordinance the location of all wells in Delmar supplying potable water to the City Water System shall be located on the official Wellhead Protection Map with Primary Zone, Secondary Zone and Zone of Sensitivity indicated.

2. Map Maintenance - The Zone of Protection Maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:

- a. Changes in the technical knowledge concerning the aquifer.
- b. Changes in permitted pumping capacity of City wells.
- c. Addition of wells or elimination of existing wells.
- d. Designation of new well fields.

3. Wellhead Protection Zones - The zones of protection indicated on the zone of protection maps are as follows:

- a. PRIMARY PROTECTION ZONE - The area within the two (2) year time-related

capture zone of any well supplying potable water to the City water system.

b. **SECONDARY PROTECTION ZONE** - The area within the ten (10) year time-related capture zone, excluding the Primary Protection Zone, of any well supplying potable water to the City water system.

c. **ZONE OF SENSITIVITY** - The area within the twenty (20) year time-related capture zone, excluding the Primary and Secondary Protection Zones, from any well supplying potable water to the City water system.

#### 6-13-5 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. **Permitted Uses**:- The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited.

a. Industrial buildings within the City, provided there is no onsite waste disposal or fuel storage tank facilities associated within this use, and the Iowa DNR "separation distances for wells" for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the City.

b. Playgrounds/Parks.

c. Wildlife areas, opens spaces.

d. Lawns and Gardens.

e. Non-motorized trails, such as biking, skiing, nature and fitness trails.

2. Additional restrictions are as follows:

a. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

b. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups cost, and may be subject to fines as specified in this ordinance.

c. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

#### 6-13-6 RESTRICTION WITHIN THE SECONDARY PROTECTION ZONE.

1. **Permitted Uses** - The following uses are permitted in the Secondary Protection Zone. Uses

not listed are to be considered prohibited.

- a. All uses listed as permitted in the Primary Protection Zone.
- b. Sewer - residential and commercial.
- c. Above ground storage tanks when incompliant with State Fire Marshall's regulations.
- d. Basement storage tanks.
- e. Livestock grazing and field cropping activities.

2. Additional restrictions are as follows:

a. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

b. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines specified in this ordinance.

c. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to the Wellhead Protection Officer regardless of their status under Section 128.07.D

#### 6-13-7 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY.

1. Permitted Uses - The following uses are permitted in the Zone of Sensitivity. Uses not listed are to be considered prohibited.

- a. All uses listed as permitted in the Primary Protection Zone.
- b. All uses listed as permitted in the Secondary Protection Zone.
- c. All uses, handling and storage, when in compliance with, and allowed by, federal, state, and local laws and regulations.

2. Additional restrictions are as follows:

a. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the Zone of Sensitivity.

b. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines as specified in this ordinance.

6-13-8 EXCEPTIONS:

1. The following activities or uses are exempt from the provisions of this ordinance:
  - a. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
  - b. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
  - c. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
  - d. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone and the Zone of Sensitivity.
  - e. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
  - f. Consumer products located in the home which are used for personal, family, or household purposes.
  - g. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
  - h. The use of water treatment chemicals connected with the operation of the well, or plant.
2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone, must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance exemption is granted by the City Council.
3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this ordinance by law shall not be subject to the restrictions contained herein.

4. All requests for permits or special exceptions in the City Wellhead Protection Zones must be made in writing to the City Council. All request must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

#### 6-13-9 DETERMINATION OF LOCATIONS WITHIN ZONES.

1. In determining the location of properties within the zones depicted on the Zone Protection Maps, the following rules shall apply:

a. Properties located wholly within one (1) zone reflected on the applicable Zone of Protection Map shall be governed by the restrictions applicable to that zone.

b. For properties having parts lying within more than (1) zone as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

#### 6-13-10 ENFORCEMENT AND PENALTIES:

1. The Water Superintendent is designated as the Wellhead Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this ordinance.

2. The Wellhead Protection Inspector(s) shall be the Water Superintendent.

3. No building permit shall be issued which is a violation of the Iowa DNR "SEPARATION DISTANCE FROM WELLS," a violation of this ordinance or a source of contamination for a city well.

4. No new underground tank(s) will be allowed for auxiliary fuel storage in the Primary or Secondary zones.

5. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided therein.

#### 6-13-11 INSPECTIONS:

1. The Wellhead Protection Inspector(s) shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having authority over a property to permit an



inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer or Inspector to inspect such premises.

2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.

3. The Wellhead Protection Officer or Inspector shall inspect each city well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the Primary and Secondary Protection Zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector as under 128.06.B.2.

#### 6-13-12 NOTICE OF VIOLATION AND HEARING:

1. Whenever an officer or an inspector determines that there is a violation of this ordinance, he shall give notice thereof in the manner hereinafter provided.

a. A notice of violation shall:

- (1) Be in writing;
- (2) Be dated and signed by the officer or inspector;
- (3) Specify the violation or violations; and
- (4) State that said violation(s) shall be corrected within ten (10) days of the date on which the inspector issued the notice of violation.

2. Failure of the responsible person(s) to correct the violation within ten (10) days of the date of issue of the notice of violation shall result in the following fines:

- |                                |             |
|--------------------------------|-------------|
| a. First notice of violation:  | \$1,000.00  |
| b. Second notice of violation: | \$5,000.00  |
| c. Third notice of violation:  | \$10,000.00 |

#### 6-13-13 INJUNCTIVE RELIEF:

1. If any person who engages in nonresidential activities store, handles, uses, and/or produces toxic substances within the wellhead protection zones, as indicated on the Zone of Protection Maps, continues to operate in violation of the provisions of this ordinance, then, the City may file an action for injunctive relief in the court of jurisdiction.

**Page 198 – Reserved for Future Use**

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 1 CABLE FRANCHISE – RESERVED**

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 2 ELECTRIC FRANCHISE

7-2-1	Franchise Granted	7-2-7	Franchise not Exclusive
7-2-2	City Held Harmless	7-2-8	Continuous Service
7-2-3	City Streets	7-2-9	Term
7-2-4	Locate and Relocate Facilities	7-2-10	Ordinance Expense
7-2-5	Meters	7-2-11	Acceptance
7-2-6	Modern System	7-2-12	Official Agreement

7-2-1 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Delmar, Clinton County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the said City of Delmar, Clinton County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the said City of Delmar, Clinton County, Iowa, to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

7-2-2 CITY HELD HARMLESS. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

7-2-3 CITY STREETS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

7-2-4 LOCATE AND RELOCATE FACILITIES. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing

facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

7-2-5 METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

7-2-6 MODERN SYSTEM. The system authorized by this Ordinance shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

7-2-7 FRANCHISE NOT EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

7-2-8 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

7-2-9 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

7-2-10 ORDINANCE EXPENSE. The expense of the publication of this Ordinance shall be paid by the Company.

7-2-11 ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

7-2-12 OFFICIAL AGREEMENT. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of Delmar with respect to the rights contained herein, and may not be superceded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City of Delmar as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of Delmar enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

(Ord. 103-09, Passed June 4, 2009)

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 3 GAS FRANCHISE

7-3-1	Franchise Granted	7-3-6	Franchise not Exclusive
7-3-2	City Held Harmless	7-3-7	Term
7-3-3	City Streets	7-3-8	Ordinance Expense
7-3-4	Locate and Relocate Facilities	7-3-9	Acceptance
7-3-5	Continuous Service	7-3-10	Official Agreement

7-3-1 **FRANCHISE GRANTED.** There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty- five (25) years from and after the passage, adoption, approval and acceptance of this Ordinance, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City of Delmar, Clinton County, Iowa as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

7-3-2 **CITY HELD HARMLESS.** The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

7-3-3 **CITY STREETS.** In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

7-3-4 **LOCATE AND RELOCATE FACILITIES.** The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company

shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

7-3-5 CONTINUOUS SERVICE. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

7-3-6 FRANCHISE NOT EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

7-3-7 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty- five (25) years from and after its acceptance by the said Company, as herein provided.

7-3-8 ORDINANCE EXPENSE. The expense of the publication of this Ordinance shall be paid by the Company.

7-3-9 ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this ordinance.

7-3-10 OFFICIAL AGREEMENT. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of Delmar with respect to the rights contained herein, and may not be superceded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City of Delmar as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of Delmar enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

(Ord. 104-09, Passed May 7, 2009)