

CITY OF KANAWHA CODE OF ORDINANCES

2023

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**CODIFIED BY: NORTH IOWA AREA COUNCIL OF GOVERNMENTS
 525 6th STREET. S.W.
 MASON CITY, IA 50401**

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CHAPTER 1 GENERAL PROVISIONS

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

1. "Building" means any man-made structure permanently affixed to the ground.
2. "City" means the City of Kanawha, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
3. "Clerk" means Clerk-Treasurer.
4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
6. "County" means the County of Hancock, Iowa;
7. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
8. "Fiscal Year" means July 1 to June 30.
9. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
10. "May" confers a power;
11. "Month" means a calendar month;

12. "Must" states a requirement;
13. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
14. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
15. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
16. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
17. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
18. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
19. "Preceding" and "following" mean next before and next after, respectively;
20. "Property" includes real and personal property;
21. "Real property" includes any interest in land;
22. "Shall" imposes a duty;
23. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
24. "State" means the State of Iowa;
25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
28. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
29. "Year" means a calendar year;
30. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and

appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

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

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

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;

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

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion

thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.

2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: “That section _____ of the Code of Ordinances, City of Kanawha, Iowa is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: “That the Code of ordinances, City of Kanawha, Iowa, is hereby amended by adding a section, to be numbered _____, which said section reads as follows: ...” The new section shall then be set out in full as desired.

TITLE I GENERAL PROVISIONS

CHAPTER 2 RIGHT OF ENTRY

1-2-1 Right of Entry

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

TITLE I GENERAL PROVISIONS

CHAPTER 3 PENALTY

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

1-3-3 Scheduled Fines

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

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

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 Kanawha, 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 Kanawha, 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 Kanawha.

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

2. Violations, Penalties, and Alternative Relief.

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

Schedule of Civil Penalties

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

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

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

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

3. Civil Citations

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

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

c. The original of the citation shall be sent to the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the County Treasurer.

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

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

4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, such violation will be subject to a contempt of court action.

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or

limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of not less than \$65.00 but not to exceed \$625.00. No violation of the City Code shall subject an individual to incarceration. A simple misdemeanor criminal charge filed pursuant to this Code of Ordinances shall only subject an individual to a monetary fine.

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

TITLE I GENERAL PROVISIONS

CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

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

1-4-1 PURPOSE AND INTENT.

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

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

1-4-2 GENERAL.

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

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

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

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

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

1-4-3 FORM OF NOTICE OF HEARING.

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

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

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

1-4-5 CONDUCT OF HEARING.

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

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

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

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

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

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

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

b. To introduce documentary and physical evidence;

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

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

e. To rebut the evidence against the party; and

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

7. Official notice.

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

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

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

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

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

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

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

1-4-6 METHOD AND FORM OF DECISION.

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 1 CITY CHARTER

2-1-1	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
		2-1-7	City Boundaries

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

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Kanawha, 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 Kanawha, Iowa.

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

(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 four (4) years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

2-1-7 CITY BOUNDARIES. The boundaries of the City of Kanawha, Iowa shall be as follows: The Southwest Quarter of Section Twenty-two; the Southeast Quarter of Section Twenty-one, the North Half and the Southwest Quarter of Section Twenty-seven; the North Half and the Southeast Quarter of Section Twenty-eight, all in Township number Ninety-four North, Range Twenty-five West of the fifth P.M. in Hancock County, Iowa except a tract of land described as follows: Beginning at the Northeast Corner of the said Northwest Quarter of Section Twenty-eight, thence along the North section line of said quarter a distance of 403 feet West, thence South perpendicular to said North Section line a distance of 403 feet, thence East a distance of 827 feet parallel with said North Section a distance of 403 feet, thence West to the point of beginning.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

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

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

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore and shall appoint and may dismiss the Police Chief with the consent of a majority of the City Council.

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

2-2-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.

2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

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

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

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

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

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

2-3-3 **DEPOSITS OF MUNICIPAL FUNDS.** Prior to the fifth day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds. Funds received by the City Clerk shall be deposited the same day in which they are received. Deposits shall be made in the same banks selected by the Council in amounts not exceeding monetary limits authorized by the Council. Deposits shall be made in accordance with the City's Investment Policy.

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the

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

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

(Code of Iowa. Sec. 380.6)

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

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

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

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

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to appoint, employ or discharge from employment officers or employees without the approval of the City Council. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

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

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

(Code of Iowa, Sec. 384.20)

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

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

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

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

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

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

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

19. The Clerk shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.
(Code of Iowa, Sec. 372.13(4))

20. The Clerk shall inform all persons appointed by the Mayor or City Council to offices in the municipal government of their position and the time at which they shall assume the duties of their office.
(Code of Iowa, Sec. 372.13(4))

21. The Clerk shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance of the City Clerk in regard to elections.
(Code of Iowa, Sec. 376.4)

22. The Clerk shall draw all warrants/checks for the City upon the vote of the City Council.
(Code of Iowa, Sec. 372.13(4))

23. The Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.
(Code of Iowa, Sec. 372.13(4))

24. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.
(Code of Iowa, Sec. 372.13(4))

25. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.
(Code of Iowa, Sec. 372.13(4))

26. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.
(Code of Iowa, Sec. 384.16)

27. The Clerk shall keep the record of each fund separate.
(Code of Iowa, Sec. 372.13(4) and 384.85)

28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.
(Code of Iowa, Sec. 372.13(4))

29. The Clerk shall prepare a receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.
(Code of Iowa, Sec. 372.13(4))

30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.
(Code of Iowa, Sec. 372.13(4))

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

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

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

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

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

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

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

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

2-3-8 POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC WORKS AND UTILITIES. The duties of the superintendent of public utilities shall be as follows:

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

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal utilities.

2. The Superintendent, with the assistance of the City Clerk, shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.

3. The Superintendent shall make a report every month in writing to the Mayor and City Council on the present state of the public utilities. In this report shall be specifically stated the financial condition, production and the general condition of the entire utilities enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public utilities of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; a statement of free services rendered to the municipality during the year and their estimated cash value; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.

4. The Superintendent shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.

5. The Superintendent shall supervise maintenance and repair of sidewalks, alleys, bridges, and streets and keep them in a reasonably safe condition for travelers. The Superintendent shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, or other city property, and is charged with the duty of correcting unsafe defects.

6. The Superintendent shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.

7. The Superintendent, with the assistance of the City Clerk, shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. The Superintendent shall make monthly oral and written reports of the activities of the department to the Mayor on or before the first day of each month.

8. The Superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

2-3-9 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.

2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.

3. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

5. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.

6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:

a. Fire prevention.

b. Maintenance and use of fire escapes.

c. The investigation of the cause, origin and circumstances of fires.

d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.

e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.

8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS

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

2-4-3 Mayor Pro Tem
2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be thirty (\$30.00) dollars for each meeting of the City Council attended.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of three thousand, six hundred (\$3,600) dollars to be paid in equal monthly installments.

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

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

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 5 CITY FINANCE

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

2-5-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows in accordance with Section 384.16.

(Code of Iowa, Sec. 384.16)

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

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

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

2. Not less than twenty days before the date that the budget must be certified to the County Auditor and not less than ten days before the date set for hearing, the Clerk 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.

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

2-5-3 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)

2-5-4 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)

2-5-5 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency

or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

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

2-5-6 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-7 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. Purchases not exceeding three hundred (\$300.00) dollars may be made by those officials authorized by the City Council. Purchases from petty cash shall be excepted.

2-5-8 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 check the availability of an appropriation sufficient to pay for such a purchase. A purchase may be made 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 allow the purchase 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 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.

2-5-9 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk and Mayor. In the Mayor's absence, the Mayor Pro-tem shall be so authorized.

(Code of Iowa, Sec. 384.20)

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 6 CITY ELECTIONS

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

2-6-1 **PURPOSE.** The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-6-2 **NOMINATING METHOD TO BE USED.** All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.
(Code of Iowa, Sec. 376.3)

2-6-3 **NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.
(Code of Iowa, Sec. 45.1)

2-6-4 **ADDING NAME BY PETITION.** The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.
(Code of Iowa, Sec. 45.2)

2-6-5 **PREPARATION OF PETITION.** Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

1. **Name and Residence.** The name and residence (including street and number, if any) of said nominee, and the office to which nominated.

2. **Name on Ballot.** A request that the name of the nominee be printed upon the official ballot for the election.

3. **Eligibility.** A statement that the nominee is eligible to be a candidate for the office and if elected will qualify as such officer.

4. **Organization Statement.** A statement, in the form required by Iowa law, concerning the organization of the candidate's committee.

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

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

2-6-7 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 7 POLICE DEPARTMENT

2-7-1	Department Established	2-7-7	Police Chief; Duties
2-7-2	Organization	2-7-8	Departmental Rules
2-7-3	Peace Officer Qualifications	2-7-9	Summoning Aid
2-7-4	Required Training	2-7-10	Taking Weapons
2-7-5	Compensation	2-7-11	Contract Law Enforcement
2-7-6	Peace Officers Appointed		

2-7-1 DEPARTMENT ESTABLISHED. The Police Department of the City is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City.

2-7-2 ORGANIZATION. The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part-time, as may be authorized by the City Council.

2-7-3 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

2-7-4 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

(Code of Iowa, Sec. 80B.11(2))

2-7-5 COMPENSATION. Members of the department are designated by rank and receive such compensation as shall be determined by resolution of the City Council.

2-7-6 PEACE OFFICERS APPOINTED. The Mayor with the consent of a majority of the City Council shall appoint the Police Chief. The Police Chief shall appoint, subject to the approval of the Mayor and City Council, the other members of the department.

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

2-7-7 POLICE CHIEF; DUTIES. The Police Chief has the following powers and duties subject to the approval of the City Council.

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

1. General. Perform all duties required of the Police Chief by law or ordinance.

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

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

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

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

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

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

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

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

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

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

12. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

13. Writs. Execute and return all writs and other processes directed to the Police Chief.

14. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

15. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

16. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.

17. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

18. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

19. Reports. Compile and submit to the Mayor and City Council an annual report as well as such other reports as may be requested by the Mayor or City Council.

2-7-8 DEPARTMENTAL RULES. The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the City Council, as may be necessary for the operation of the department.

2-7-9 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.
(Code of Iowa, Sec. 804.17)

2-7-10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.
(Code of Iowa, Sec. 804.18)

2-7-11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a Police Chief by the Mayor, the City Council may contract with the Hancock County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.
(Code of Iowa, Sec. 28E.30)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 8 CITY COUNCIL

2-8-1 Powers and Duties
2-8-2 Exercise of Power

2-8-3 Meetings

2-8-1 **POWER AND DUTIES.** The powers and duties of the City Council include, but are not limited to the following:

1. **General.** All powers of the City are vested in the City Council except as otherwise provided by law or ordinance.

(Code of Iowa, Sec. 364.2(1))

2. **Wards.** By ordinance, the City Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards or create new wards.

(Code of Iowa, Sec. 372.13(7))

3. **Fiscal Authority.** The City Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.

(Code of Iowa, Sec. 364.2(1), 384.16 & 384.38(1))

4. **Public Improvements.** The City Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings.

(Code of Iowa, Sec. 364.2(1))

5. **Contracts.** The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.

(Code of Iowa, Sec. 364.2(1) & 384.95 through 384.102)

6. **Employees.** The City Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by the State law or the Code of Ordinances.

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

7. **Setting Compensation for Elected Officers.** By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of City Council members becomes effective for all City Council members at the beginning of the term of the City Council members elected at the election next following the change in compensation.

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

2-8-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

2-8-3 MEETINGS.

1. Regular Meetings. The regular meetings of the City Council are on the second (2nd) Tuesdays of each month at six o'clock (6:00) p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or for other reasons, the meeting will held on such different day or time as determined by the City Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.

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

3. Quorum. A majority of all City Council members is a quorum.

(Code of Iowa, Sec. 372.13(1))

4. Rules of Procedure. The City Council shall determine its own rules and maintain records of its proceedings.

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

5. Compelling Attendance. Any three (3) members of the City Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

TITLE III COMMUNITY PROTECTION

CHAPTER 1 OFFENSES

3-1-1	Violations of Chapter	3-1-5	Streets
3-1-2	Public Peace	3-1-6	Public Safety and Health
3-1-3	Public Morals-Indecent Exposure	3-1-7	Public Property
3-1-4	Public Morals-Urinating and Defecating		

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 if the person knows or reasonably should know that such behavior would be offensive to a reasonable person

3-1-4 PUBLIC MORALS. Urinating and Defecating. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

3-1-5 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. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly. Upon failure by the abutting property owner to perform the action required under this subsection within a reasonable time, the City may perform the required action and assess the costs against the abutting property.

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

4. Dumping of snow or grass clippings. It shall be unlawful for any person to throw, push, blow, or place or cause to be thrown, pushed, blown, or placed, any ice or snow or grass clippings from private property, sidewalks or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the streets or to create a hazardous condition therein; except where, in the cleaning of the large commercial drives in the business district it is absolutely necessary to move snow on to the streets temporarily, such accumulation shall be removed promptly by the property owner or agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

5. 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.

3-1-6 PUBLIC SAFETY AND HEALTH.

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

(Code of Iowa, Sec. 364.1)

2. Putting debris on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance, which the person knows or has reason to know may injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.

4. 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.

5. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. Fireworks allowed as specified:

i. Definitions. For purposes of this section, the terms “consumer fireworks”, “display fireworks”, and “novelties” shall have the respective meanings enumerated in Iowa Code Section 727.2, which definitions are incorporated by reference. Consumer fireworks do not include the use of blank cartridges for a show o theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations.

ii. Use of Consumer Fireworks. Consumer fireworks may be used on July 3 and July 4 from five o’clock (5:00) P.M. until eleven o’clock (11:00) P.M. and on the night of December 31 from ten o’clock (10:00) P.M. until twelve thirty o’clock (12:30) A.M. on the immediate following day. A person shall not use, explode or discharge consumer fireworks on real property other than that person’s real property or on the real property of a person who has consented to the use of consumer fireworks on that property. No person may use, explode or discharge consumer fireworks unless that person is 21 years of age or older. A person that uses, explodes or discharges consumer fireworks shall have the responsibility to clean up all debris created by the fireworks. A person shall not release or cause to be released an untethered sky lantern.

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

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

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

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

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

6. 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)

7. 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)

8. 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.

9. 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))

10. 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)

11. 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)

12. Littering Prohibited.

a. As used in this Code, "discard" means to place, cause to be placed, throw, deposit or drop, and

“litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.

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

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

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

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

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

3-1-7 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.

(Code of Iowa, 364.12(2))

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

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

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

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

(Code of Iowa, Sec. 716.1)

6. Injury to gravestones or property in cemetery. No person shall willfully or recklessly destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any

public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 727.8)

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

(Code of Iowa, Sec. 716.1)

TITLE III COMMUNITY PROTECTION

CHAPTER 2 NUISANCES

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

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

l. Weeds. Any condition relating to weeds which is described as a nuisance in the Kanawha Municipal Code of Ordinances or under state law. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way. Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.

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

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. All trees overhanging any city sidewalk such that the space between said sidewalk and the lowest branch overhanging said sidewalk is not less than eight (8) feet. All trees overhanging any street or alley in the city such that the space between the street or alley and the lowest branch overhanging said street or alley is not less than fifteen (15) feet. It shall be the responsibility of the abutting property owner to trim such trees, in accordance herewith, outside the lot and property lines and inside the curb lines upon the public streets, sidewalks and alleys, except that the property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

r. All old scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

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

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance may be abated by criminal citation, municipal infraction or as otherwise provided in this Ordinance or Code of Iowa.

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

3. The numbering of buildings. Every owner shall comply with the following numbering requirements:

(a) Obtain Building Number. The owner shall obtain the assigned number to his principal building from the clerk.

(b) Display Building Number. The owner shall place or cause to be installed and maintain on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half inches in height and of contrasting color to their background.

(c) Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the city to do so, the city may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

(d) Building Numbering Map. The clerk shall be responsible for preparing and maintaining a building numbering map.

(e) Numbering System. Numbers shall be assigned in compliance with the following guidelines:

(1) North-South Streets. Even numbers are assigned to the west side of Main Street and all other north-south streets with odd numbers on the east side.

(2) East-West Streets. Even numbers are assigned to the north side of all east-west streets with odd numbers on the south. (Diagonal streets or circles do appear not to be a problem at present; the odd-even criteria will be arbitrarily assigned when the need arises.

(3) Lot Increments. A number will be assigned to each twenty-five (25) foot increment based on the legal subdivision as originally platted. (Twenty-four (24) foot in the case of certain lots on Main Street).

(4) Street Front. Where a lot abuts two (2) streets, it will be assigned a number corresponding to its position on each street; the facing of the business or residence will determine the number used.

(5) Fractional Lots. Where the side of a lot is facing a street, numbers will be assigned for each included twenty five (25) feet plus a number for the fraction if twelve and one- half feet or more. (If less than twelve and one-half feet it will be ignored).

(6) Multi-Unit Property. Where a unit of property contains several assigned numbers, the number used shall be that of the twenty- five (25) foot increment including the property center line. If the center line coincides with the division into twenty- five (25) foot increments as in the case of a fifty (50) foot lot, the number used will be the number of the right hand parcel as seen by an observer facing the street.

(7) New Subdivisions. In new or potential subdivisions, numbers will be assigned to lots at the time they are platted in line with Rules 1 through 6. (A decision with respect to Rule 3 will be made by the appropriate authority at that time).

(8) Mailing Address. Since mail is not delivered to residences or businesses in this community at this time, P.O. Box numbers will remain the official mailing addresses, but newly assigned numbers and street names may be added if desired.

(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 prohibited condition exists, the Mayor or officer may notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

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

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

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

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

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

3-2-6 METHOD OF SERVICE. The notice may be sent by regular mail 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/employee ordering the abatement within seven (7) working days of the receipt of the notice or the right to a hearing shall be waived.

If an appeal is not filed as set forth herein, it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A)

TITLE III COMMUNITY PROTECTION

CHAPTER 3 TRAFFIC CODE

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

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

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

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

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

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

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

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

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 Chief of Police. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

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

3-3-4 **POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS.** The Police Chief 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 threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

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

1. 321.98 Operation without registration.
2. 321.174 Operators licensed.
3. 321.180 Violations of instruction permit limitations.
4. 321.193 Violation of conditions of restricted license.
5. 321.194 Violation of conditions of minor's school license.
6. 321.216 Unlawful use of license.
7. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
8. 321.219 Permitting unauthorized minor to drive.
9. 321.220 Permitting unauthorized person to drive.
10. 321.229 Failure to comply with lawful order of peace officer.
11. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
12. 321.232 Radar jamming devices.
13. 321.234 Failure to observe seating requirements.
14. 321.236 (Parking) Violation of local ordinance (not a state offense).

15. 321.256 Failure to obey traffic control device.
16. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
17. 321.260 Unlawful possession of, or interference with traffic control device.
18. 321.264 Striking unattended vehicle.
19. 321.265 Striking fixtures upon a highway.
20. 321.275 Motorcycle and motorized bicycles violations.
21. 321.277 Reckless driving.
22. 321.278 Drag racing prohibited.
23. 321.285 Speed restrictions.
24. 321.286 Truck speed limits (highway).
25. 321.287 Bus speed limits (highway).
26. 321.288 Failure to maintain control.
27. 321.294 Failure to maintain minimum speed when directed by officer.
28. 321.295 Excessive speed on bridge.
29. 321.297 Driving on wrong side of two-way highway.
30. 321.298 Failure to yield half of roadway upon meeting vehicle.
31. 321.299 Passing on wrong side.
32. 321.303 Unsafe passing.
33. 321.304 Unlawful passing.
34. 321.305 Violating one-way traffic designation.
35. 321.306 Improper use of lanes.
36. 321.307 Following too closely.
37. 321.308 Following too closely (trucks and towing vehicles).
38. 321.309 Failure to use approved drawbar.
39. 321.310 Unlawful towing of four-wheeled trailer.
40. 321.311 Turning from improper lane.
41. 321.312 Making U-turn on curve or hill.
42. 321.313 Unsafe starting of a stopped vehicle.
43. 321.314 Unsafe turn or failure to give signal.
44. 321.315 Failure to give continuous turn signal.
45. 321.316 Failure to signal stop or rapid deceleration.
46. 321.317 Signal light requirements; see equipment violation.
47. 321.318 Incorrect hand signal.
48. 321.319 Failure to yield to vehicle on right.
49. 321.320 Failure to yield upon left turn.
50. 321.321 Failure to yield upon entering through highway.
51. 321.322 Failure to obey stop or yield sign.
52. 321.323 Unsafe backing on highway.
53. 321.324 Failure to yield to emergency vehicle.
54. 321.325 Pedestrian disobeying traffic control signal.
55. 321.326 Pedestrian walking on wrong side of highway.
56. 321.327 Pedestrian right-of-way.
57. 321.328 Pedestrian failing to use crosswalk.
58. 321.329 Vehicle failing to yield to pedestrian.
59. 321.331 Soliciting ride from within roadway.
60. 321.332 Unlawful use of white cane.
61. 321.333 Failure to yield to blind person.
62. 321.340 Driving in or through safety zone.
63. 321.341 Failure to properly stop at railroad crossing.

- 64. 321.342 Failure to obey stop sign at railroad crossing.
- 65. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
- 66. 321.344 Unlawful movement of construction equipment across railroad track.
- 67. 321.353 Unsafe entry into sidewalk or roadway.
- 68. 321.354 Stopping on traveled part of highway.
- 69. 321.358 Stopping, standing, or parking where prohibited.
- 70. 321.360 Prohibited parking in front of certain buildings.
- 71. 321.361 Parking too far from curb/angular parking.
- 72. 321.362 Parking without stopping engine and setting brake.
- 73. 321.363 Driving with obstructed view or control.
- 74. 321.365 Coasting upon downgrade.
- 75. 321.366 Improper use of median, curb, or controlled access facility.
- 76. 321.367 Failure to maintain distance fire-fighting vehicle.
- 77. 321.368 Crossing unprotected fire hose.
- 78. 321.369 Putting debris on highway/roadway.
- 79. 321.370 Removing injurious material.
- 80. 321.371 Clearing up wrecks.
- 81. 321.372 School bus provisions.
- 82. 321.377 Excessive speed of school bus.
- 83. 321.381 Driving or towing unsafe vehicle.
- 84. 321.382 Operating underpowered vehicle.
- 85. 321.383 Failure to display reflective device on slow-moving vehicles.
- 86. 321.384 Failure to use headlamps when required.
- 87. 321.385 Insufficient number of headlamps.
- 88. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
- 89. 321.387 Improper rear lamp.
- 90. 321.388 Improper registration plate lamp.
- 91. 321.389 Improper rear reflector.
- 92. 321.390 Reflector requirements.
- 93. 321.391 Improper type of reflector.
- 94. 321.392 Improper clearance lighting on truck or trailer.
- 95. 321.393 Lighting device color and mounting.
- 96. 321.394 No lamp or flag on rear-projecting load.
- 97. 321.395 Parking on certain roadways without parking lights.
- 98. 321.397 Improper light on bicycle.
- 99. 321.398 Improper light on other vehicle.
- 100. 321.402 Improper use of spotlight.
- 101. 321.403 Improper use of auxiliary driving lights.
- 102. 321.404 Improper brake light.
- 103. 321.408 Back-up lamps.
- 104. 321.409 Improperly adjusted headlamps.
- 105. 321.415 Failure to dim.
- 106. 321.419 Improper headlighting when night driving.
- 107. 321.420 Excessive number of driving lights.
- 108. 321.422 Lights of improper color-front or rear.
- 109. 321.423 Special light/signal provision.
- 110. 321.430 Defective braking equipment.
- 111. 321.431 Brake performance ability.
- 112. 321.432 Defective audible warning device.

- 113. 321.433 Unauthorized use of emergency audible warning devices on motor vehicle.
- 114. 321.434 Use of siren or whistle on bicycle.
- 115. 321.436 Defective or unauthorized muffler system.
- 116. 321.437 Mirrors.
- 117. 321.438 Windshields.
- 118. 321.439 Defective windshield wiper.
- 119. 321.440 Defective tires.
- 120. 321.441 Unauthorized use of metal tire or track.
- 121. 321.442 Unauthorized use of metal projection on wheels.
- 122. 321.444 Failure to use safety glass.
- 123. 321.445 Failure to maintain or use safety belts.
- 124. 321.446 Failure to secure child.
- 125. 321.449 Special regulations.
- 126. 321.450 Hazardous materials.
- 127. 321.454 Width and length violations.
- 128. 321.455 Excessive side projection of load – passenger vehicle.
- 129. 321.456 Excessive height.
- 130. 321.457 Excessive length.
- 131. 321.458 Excessive projection from front of vehicle.
- 132. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 133. 321.460 Spilling loads on highways.
- 134. 321.461 Excessive tow-bar length.
- 135. 321.462 Failure to use required towing equipment.
- 136. 321.463 Maximum gross weight.
- 137. 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

TRAFFIC CONTROL DEVICES

3-3-7 **AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.** The Chief of Police 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 Chief of Police shall keep a record of all traffic-control devices maintained by the department.

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

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 **CHIEF OF POLICE TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES.** The Chief of Police 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 Chief of Police 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. Speeds in excess of thirty-five (35) miles per hour shall be unlawful on any of the following designated streets or parts of streets thereof.

(a) West Fifth Street from Walnut Street to west edge of Cemetery.

(b) East Fifth Street from east side of Kanawha Christian School property to east edge of pipeline pumping station.

2. Speeds in excess of twenty (20) miles per hour shall be unlawful on any of the following designated streets or parts thereof between the hours of 7:00 a.m. to 9:00 a.m. and 2:30 p.m. and 4:30 p.m. on school days:

(a) East Fifth Street from Linden Street to the east edge of pipeline pumping station.

(b) North Locust Street from Second Street north to Fifth Street north.

(Code of Iowa, Sec. 321.290)

TURNING MOVEMENTS

3-3-11 TURNING MARKERS, BUTTONS AND SIGNS. The Chief of Police 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 Chief of Police is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

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

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

ONE-WAY STREETS AND ALLEYS

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

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

1. Portion of alley running East and West in Block Ten, Original Town of Kanawha, Iowa. All vehicles must travel East on that portion of the alley running East and West of the Alley running North and South, all in Block Ten, Original Town.

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

SPECIAL STOPS REQUIRED

3-3-18 **AUTHORITY TO ERECT STOP SIGNS.** Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police 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.

3-3-19 **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 Chief of Police is

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

3-3-20 **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.

3-3-21 **SCHOOL STOPS.** When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

PEDESTRIANS' RIGHTS AND DUTIES

3-3-22 **PROHIBITED CROSSING.** Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

3-3-23 **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

3-3-24 **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)

3-3-25 **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)

3-3-26 **SIGNS OR MARKINGS INDICATING ANGLE PARKING.** The Chief of Police, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

3-3-27 **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

3-3-28 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.

3-3-29 **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 Chief of Police may cause curbs to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, 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))

3-3-30 **AUTHORITY TO IMPOUND VEHICLES.** Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

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

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

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

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

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

STOPPING, STANDING OR PARKING

3-3-31 **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 Police Chief 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)

3-3-32 **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 the period of time when snow is falling and for a period of twenty-four (24) hours after cessation of snowfall unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

3-3-33 **ALL-NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following streets for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day:

1. Main Street from the railroad tracks to Third Street.

3-3-34 **TRUCK PARKING LIMITED.** It shall be unlawful for any motor truck, carrier, van, stock truck, or bus of any kind more than eighteen (18) feet in length to stop, park or to be left standing upon any street except for the purpose of loading or unloading and then only so long as it is necessary for loading or unloading, and not to exceed thirty (30) minutes at any one time.

3-3-35 **FRONT AND SIDE YARDS OF RESIDENTIAL BUILDINGS.** No person shall park a vehicle on the lawn of any residential building, except within the bounds of driveways and hard surfaced parking spaces overnight. Hard surfaced parking spaces shall not exceed thirty percent (30%) of the front yard of any lot or the side yard of a corner lot. However, hard surfaced parking spaces may reasonably be expanded for access to garages for multiple attached dwellings. This provision shall not apply to motor vehicles being used to move, deliver and/or take articles to and from a yard, or building, or structure located thereon, or used in connection with providing a temporary service, for a reasonable period of time while in the active process of said use. Lawn is defined as the area between the residential building or outbuildings up to and including the city's parking (or tree berm). City parking is defined as the land owned by the City, abutting both sides of the streets and roads. Vehicles may be parked in back yards that are adjacent to alleys. Such parking spaces shall be located immediately adjacent to the alley and shall not extend more than 20 feet into adjacent yard. Building permits shall be secured from the City prior to the construction of any hard surfaced parking spaces.

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, except for the intended purpose of crossing said sidewalk to access a bona fide driveway, garage, designated parking area, or any other area that is so designed and intended for vehicles to operate or be parked.

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

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

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

3-3-39 **DRIVING THROUGH FUNERAL OR OTHER PROCESSION.** No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

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

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

3-3-42 **LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time.

3-3-43 **TRUCK ROUTES.**

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

(a) Main Street. Main Street from norther or southern City limits to northern or southern City Limits.

(b) East Fifth Street. East Fifth Street from Main Street to Locust Street.

(c) Fifth Street. Fifth Street from west or east City Limits to east or west City Limits.

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

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

3-3-44 **VEHICULAR NOISE.**

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

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

3-3-45 ENGINE AND COMPRESSION BRAKES.

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

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

BICYCLE REGULATIONS

3-3-46 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean the following:

a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

(Code of Iowa, Sec. 321.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

3-3-55 **LAMPS AND OTHER EQUIPMENT ON BICYCLES.** Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

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

SNOWMOBILES

3-3-56 **SNOWMOBILE DEFINITIONS.**

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

2. "Operate" means to control the operation of a snowmobile.

3. "Operator" means a person who operates or is in actual control of a snowmobile.

3-3-57 **PERMITTED AREAS OF OPERATION.** Snowmobiles will be allowed to operate in the City only on public streets, as long as the operator is leaving or returning City Limits with destination being away from or to the operator's home and shall also be subject to the following regulations.

3-3-58 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.
5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.
7. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to eight o'clock (8:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

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

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

3-3-60 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-61 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

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

OFF-ROAD VEHICLES

3-3-63 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs, off-road motorcycles, and off-road utility vehicles shall comply with the following restrictions as to where the vehicles may be operated within the City:

1. Streets. On streets only in accordance with Sec. 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the City Council for the sport of driving.

(Code of Iowa, Sec. 321I.10(1))

(Code of Iowa, Sec. 321I.10(2a))

2. Trails. Not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10(3))

3. Railroad Right-of-way. Shall not be operated on an operating railroad right-of-way. May be driven across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law, may if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 332I.14(h))

4. Parks and Other City Land. Not be operated in any park, playground or upon any other property owned by the City without the express permission of the City.

5. Sidewalk or Parking. Not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking".

Not be operated without suitable and effective muffling devices. An all-terrain vehicle shall comply with the sound level standards and testing procedures established by the society of automotive engineers under SAE J1287.

6. Use of any ATV or UTV within the City must first be registered with the proper State authority. The operator must carry the registration certificate whenever the ATV or UTV is in use. The State registration decal must be displayed on the ATV or UTV and remain clearly visible. All ATVs and UTVs operated within the City must have operational headlights, taillights, break lights, horn, and rearview mirrors.

7. ATVs and UTVs operating within the City must not exceed a maximum speed of 35 miles per hour.

8. An individual operating an ATV or UTV within the City must be at least 18 years old with a valid driver's license and valid proof of insurance.

3-3-64 NEGLIGENCE. The owner and operator of an ATV, an off-road motorcycle, or an off-road utility vehicle is liable for any injury or damage occasioned by the negligent operation of the ATV, off-road motorcycle, or off-road utility or snowmobile. The owner of an ATV, an off-road motorcycle, or an

off-road utility vehicle shall be liable for any such injury or damage only if the owner was the operator of the ATV, off-road motorcycle, or off-road utility vehicle at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV, off-road motorcycle, or off-road utility vehicle at the time the injury or damage occurred.

(Code of Iowa, Sec. 321I.19)

3-3-65 ACCIDENT REPORTS. Whenever an ATV, off-road motorcycle, or off-road utility vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

SLOW MOVING VEHICLES

3-3-66 DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings:

1. "Electric Scooter": Means an electrically driven scooter with two (2) or more wheels and designed so that the rider or operator stands, sits, or kneels on the vehicle while the same is in motion, and having a top attainable speed of less than twenty-five (25 mph) miles per hour. Examples of this would be Segway, Razor

2. "Motorized Scooter": Means a motor driven scooter equipped with two (2) or more wheels and designed so that the rider or operator stands, or sits, or kneels on the vehicle while the same is in motion, and having a top attainable speed of less than twenty-five (25 mph) miles per hour. Any Motorized Scooter capable of being licensed in the state of Iowa may operate within that license.

3. "Low Speed Vehicle/Utility Vehicle": Means any four to six wheeled vehicle whose top speed is greater than twenty (20 mph) miles per hour. Examples of this would be a Kubota RTV, JD Gator, Bobcat Toolcat, Kawasaki Mule, Polaris Brutus, EZ Go Terrain/2Five and Suzuki Kei/Carry or other like vehicles from other manufacturers.

4. "Motorized cart": Means every motor vehicle having no less than three wheels and an unladen weight of 1300 pounds or less which cannot operate at more than twenty-five (25 mph) miles per hour. Examples being a cart regularly used on a golf course to transport people and golf clubs like EZ Go, Yamaha, Club Car etc.

5. "Operate": Means to control the operation of the vehicle.

6. "Operator": Means a person who operates or is in actual control of a vehicle.

7. "Street": Means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

3-3-67 USE OF CERTAIN STREETS WITHIN THE CITY BY TRAFFIC IN MOTORIZED CARTS AND LOW SPEED VEHICLES.

1. From and after the effective date hereof, Council may from time to time designate certain

streets or portions of streets within the City for use by persons operating motorized carts provided that each of said streets or section of streets, shall meet at least the following minimum criteria:

- a. The official speed limit established for said street or portion of streets shall be no more than 25 mph.

- b. The street or portion of streets must, in the opinion of Council, have sufficient capacity, lighting and right-of-way to safely accommodate all such traffic, including ordinary motor vehicle traffic as well as pedestrians.

2. Low Speed Vehicles/Utility Vehicles may operate on any street within the city limits of the City of Kanawha so long as the operator thereof meets the criteria required for an Iowa Driver's License, strictly observes all traffic signs, speed regulations and signals and all other traffic rules and regulations the same as any other motor vehicle and obeys the orders and directions of any police officer of the City authorized to direct or regulate traffic. Low speed vehicles/Utility Vehicles may be operated at all times provided that they have working approved lighting including not less than 2 headlamps, 2 tail lamps with brake lamps, left and right turn signals both front and rear. The lighting must be approved by the police department upon the registration process and the registration form must indicate "approved for night use." Low Speed Vehicle/Utility Vehicles meeting the above-mentioned criteria will be allowed to operate at all times of the year and on all streets within Kanawha, Iowa.

3-3-68 USE OF CERTAIN STREETS WITHIN THE CITY BY TRAFFIC IN MOTORIZED SCOOTERS AND ELECTRIC SCOOTERS. From and after the effective date hereof, Council may from time to time designate certain streets or portions of streets within the City for use by persons operating motorized scooters or electric scooters provided that each of said streets or section of streets, shall meet at least the following minimum criteria:

1. The official speed limit established for said street or portion of streets shall be no more than 25 mph.

2. The street or portion of streets must, in the opinion of Council, have sufficient capacity, lighting and right-of-way to safely accommodate all such traffic, including ordinary motor vehicle traffic as well as pedestrians.

3. May not be operated on Main Street except to cross over at any intersection.

3-3-69 RULES APPLICABLE TO THE OPERATION OF MOTORIZED CARTS. From and after the effective date hereof, no person shall operate any motorized cart, motorized scooter, electric scooter or low speed vehicle upon any public street designated for such use unless such person shall fully comply with and operate such vehicle in accordance with the following rules:

1. No person shall drive or otherwise operate any motorized cart or low speed vehicle unless that person shall have in his or her possession at all times a valid driver's license.

2. No person shall drive or otherwise operate any motorized cart, motorized scooter, or electric scooter vehicle except during daylight hours, or such more restrictive hours as may be prescribed by City Council for each street or portion of streets over which the operation of such vehicles is permitted. No person shall drive or otherwise operate any motorized cart, motorized scooter, or electric scooter vehicle except from the beginning of daylight savings time through the end of daylight savings time. Motorized

carts may be operated at all times and on all streets provided that they have working approved lighting including not less than 2 headlamps, 2 tail lamps with brake lamps, left and right turn signals both front and rear. The lighting must be approved by the police department upon the registration process and the registration form must indicate "approved for night use."

3. No person shall drive or otherwise operate any motorized cart, motorized scooter, electric scooter or low speed vehicle except in complete compliance with the Uniform Rules of the Road and all other applicable traffic laws relating to the operation of motor vehicles and pedestrian traffic.

4. No person shall drive or otherwise operate any motorized cart, motorized scooter, electric scooter or low speed vehicle in any manner except a safe and courteous manner, having due regard for the conditions of the street, weather conditions and the safety of others.

5. Motorized carts without the above mentioned lights shall be equipped with a slow moving vehicle sign and a bicycle safety flag and will be prohibited from operating on Main Street. Motorized carts operated on city streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the governing body.

3-3-70 REGISTRATION FEES. Every owner of a motorized cart or low speed vehicle shall be required, prior to the operation of any such motorized cart or low speed vehicle on any street, to register the same at the Police Department and obtain a registration decal which shall at all times be conspicuously displayed upon such cart or vehicle, and remain thereon until such time as such cart or vehicle shall be sold or destroyed, or such license shall be revoked under the terms of this Ordinance. Each such registration and decal shall last for a period of one (1) year and shall be renewable on an annual basis. Every registration decal or renewal thereof shall expire on December 31st of each ensuing year.

Registration fees and renewal fees shall be \$25.00 for each such vehicle, or such other amount as Council may from time to time in their discretion set.

3-3-71 EXEMPTIONS. The provisions of this Ordinance shall not apply to:

1. Public Safety Officials while in performance of their official duties.
2. The use of such vehicles in a safe and reasonable manner in a parade which has been approved by City Officials.
3. Such vehicles while being operated on private property, except that the provisions of Section 3-3-59 of this ordinance shall apply to the operation of all such vehicles in the City, regardless of location or ownership of property.

3-3-72 VIOLATIONS. Any person who violates any provision of this ordinance shall be guilty of an ordinance violation of the City of Kanawha, Iowa, and shall be subject to the jurisdiction of the Iowa District Court as by law provided, except notwithstanding, any other provision contained herein to the contrary, any person violating any provision of the ordinance may, in the discretion of law enforcement and prosecutorial officials, be charged with a State Law violation. Violations of the ordinance may be punished by a fine, as by law provided, and/or revocation of the registration decal authorized by the provisions of this ordinance.

PENALTIES AND PROCEDURE

3-3-73 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a notice of parking fine giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within thirty days, or to pay the local scheduled fine.

3-3-74 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.

3-3-75 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

1. Overtime parking	\$ 20.00
2. Prohibited parking	\$ 20.00
3. No parking zone	\$ 20.00
4. Blocking alley	\$ 20.00
5. Illegal parking	\$ 20.00
6. Street cleaning	\$ 20.00
7. Snow removal ban	\$ 45.00
8. Persons with disabilities parking	\$ 200.00
(Code of Iowa, Sec. 321L.4(2))	

3-3-76 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

TITLE III COMMUNITY PROTECTION

CHAPTER 4 RAILROAD REGULATION

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

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

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

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

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

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

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

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

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

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

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

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking an object or person on the track.
3. When the train is disabled.

4. When necessary to comply with governmental safety regulations including, but not limited to, speed Ordinances and speed regulations.

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

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

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

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

TITLE III COMMUNITY PROTECTION

CHAPTER 5 FIRE PROTECTION

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

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

(Code of Iowa, Sec. 364.16)

3-5-2 **VOLUNTEER FIRE FIGHTERS.** Volunteers shall be at least age nineteen (19) to be appointed to serve as a volunteer fire fighter.

(Code of Iowa, Sec. 362.10)

3-5-3 **FIRE FIGHTER'S DUTIES.** When called by the Fire Chief, all fire fighters shall report for duty immediately in the manner directed by the Fire Chief. All fire fighters shall be subject to call at any time. Fire Fighters shall obey strictly the commands of any other fire fighter who has been appointed by the Fire Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Fire Chief.

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

3-5-4 **WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE.** The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-5-5 **LIABILITY INSURANCE.** The City Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

3-5-6 **FIRES OUTSIDE CITY LIMITS.** The department shall answer calls to fires and other emergencies outside the City limits pursuant to the 28E Agreement among participating jurisdictions.

(Code of Iowa, Sec. 364.16)

TITLE III COMMUNITY PROTECTION

CHAPTER 6 CURFEW FOR MINORS

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

3-6-1 **PREAMBLE.** The City of Kanawha 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.** 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 Kanawha 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 12:30 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 Kanawha, 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 Kanawha, 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.

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

TITLE III COMMUNITY PROTECTION

CHAPTER 7 ALCOHOLIC BEVERAGES

3-7-1	Purpose	3-7-3	Action by Council
3-7-2	Required Obedience to Provisions of this Chapter and State Law	3-7-4	Transfers

3-7-1 **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)

3-7-2 **REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.** The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited
15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration

16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

3-7-3 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))

3-7-4 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 8 JUNK AND ABANDONED VEHICLES

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

3-8-1 **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. 364.1)

3-8-2 **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 Chief of Police and has not been reclaimed for a period of ten days; or

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

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

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

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

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

- a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.
- b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.
- c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.
- d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.
- e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)
- f. Any vehicle left unattended on jacks, blocks, or elevated in any way constituting a safety hazard or threat to the public health or welfare.

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.

3-8-3 REMOVAL OF ABANDONED VEHICLES.

1. The Chief of Police or Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-8-2 (1). The Chief of Police or Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

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

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

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

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

3-8-4 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 Chief of Police or Mayor if the Chief of Police is unavailable, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

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

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

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

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

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

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-8-6.

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 3-8-5.

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

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

3-8-5 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 Chief of Police or Mayor if the Chief of Police is unavailable, 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 3-8-4 (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 3-8-5(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.

3-8-6 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))

3-8-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-8-8 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 Kanawha, 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.

3-8-9 NOTICE TO ABATE.

1. Whenever the Chief of Police or Mayor if the Chief of Police is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-8-8, the Chief of Police 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.

3-8-10 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

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

3-8-11 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))

3-8-12 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.

3-8-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-7	Dangerous Animals
4-1-2	Immunization	4-1-8	Keeping a Vicious Animal
4-1-3	At Large Prohibited	4-1-9	Owners Duty
4-1-4	Animal Nuisances	4-1-10	Confinement
4-1-5	Abandonment	4-1-11	Bothersome Animals
4-1-6	Impounding		

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

4-1-2 **IMMUNIZATION.** All dogs six (6) months or older shall be vaccinated against rabies. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

4-1-3 **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)

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 ABANDONMENT. A person who has ownership of an animal shall not abandon the animal, except the person may deliver the animal to another person who will accept ownership and custody, or the person may deliver the animal to an animal shelter or pound.

4-1-6 IMPOUNDING.

1. Any animal found at large or in violation of Sections 4-1-2 or 4-1-3 or 4-1-4 of this chapter may 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. Owners, if known shall be notified within two (2) days that upon payment of impounding fees, plus cost of food and care in a reasonable amount, and any fines, the animal will be returned. If the animals are not recovered by their owners within seven (7) days after notice, the animals shall be disposed of in a humane manner as directed by the City Council, or the facility where the animal is impounded.

If the owner chooses not to recover the animal, the owner will be liable for all fees, charges, fines, and penalties. Any unpaid fees, charges, fines, and penalties shall constitute a lien against the property of the owner, and shall be collected in the same manner as property taxes.

Following a third violation of this section, the animal responsible therefore shall be apprehended and impounded. The owner may recover the animal upon payment of any fees and costs, however the animal shall be removed from the city.

2. 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)

3. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.

(Code of Iowa, Sec 351.39)

4-1-7 DANGEROUS ANIMALS.

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

2. Definitions. A dangerous animal is:

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

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

(1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;

(2) Wolves, coyotes, and foxes;

(3) Badgers, wolverines, weasels, skunks and mink;

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

c. Any animals declared to be dangerous by the City Council.

3. **Dangerous Animals Exceptions.** The keeping of dangerous animals shall not be prohibited in the following circumstances:

a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-8 KEEPING A VICIOUS ANIMAL. An animal is deemed to be vicious when it has attacked, injured, or bitten any person without provocation or has exhibited the propensity to attack, injure, or bite persons or other domesticated animals, unprovoked, and such propensity is known to the owner or to reasonably have been known to the owner thereof.

1. An animal is deemed vicious under the following circumstances:

a. Has bitten or clawed a person without provocation on two separate occasions within a twelve (12) month period.

b. Did bite or claw a person, without provocation, causing injuries above the shoulders of a person.

c. Has attacked any domestic animal, without provocation, on more than two (2) separate occasions during the life of the animal.

d. Has killed any domestic animal, without provocation, while off the property of the attacking animal's owner.

e. Has bitten another animal or human, without provocation, that causes a fracture, skin puncture, laceration, cut, or injury to the other animal or human.

4-1-9 OWNER'S DUTY. It shall be 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 shall be 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.

4-1-10 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.

4-1-11 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the City such bothersome animals such as bees, cattle, donkeys, mules, horses, swine, sheep, goats, fowl and geese, which tend to disrupt the peace and good order of the community.

Up to six (6) hen chickens may be kept fenced and with a suitable, regularly maintained coop.

TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

CHAPTER 1 LIBRARY SERVICES

5-1-1	Public Library	5-1-6	Power to Contract with Others for the Use of the Library
5-1-2	Library Trustees	5-1-7	Non-Resident Use of the Library
5-1-3	Qualifications of Trustees	5-1-8	Library Accounts
5-1-4	Organization of the Board	5-1-9	Annual Report
5-1-5	Powers and Duties		

5-1-1 **PUBLIC LIBRARY.** There is hereby established a free public library for the City, to be known as the Kanawha Public Library.

5-1-2 **LIBRARY TRUSTEES.** The board of trustees of the Kanawha Public Library, hereinafter referred to as the board, consists of five (5) members. All board members shall be appointed by the Mayor with the approval of the City Council.

(Code of Iowa, Sec. 392.5)

5-1-3 **QUALIFICATIONS OF TRUSTEES.** The members of the Board shall be four (4) bona fide citizens and residents of the City and one (1) bona fide citizen with a Kanawha residential address, but residing outside the Kanawha City Limits. All of the members of the board shall be over the age of eighteen (18).

5-1-4 **ORGANIZATION OF THE BOARD.**

1. **Terms of office.** All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms.

(Code of Iowa Sec. 336.5)

2. **Vacancies.** The position of any trustee shall be declared vacant if said trustee moves permanently from the City or if said trustee is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the City. Vacancies in the board shall be filled by the City Council, and the new trustee shall fill out the unexpired term for which the appointment is made.

(Code of Iowa Sec. 336.6)

3. **Compensation.** Trustees shall receive no compensation for their services.

(Code of Iowa Sec. 336.7)

5-1-5 **POWERS AND DUTIES.** The board shall have and exercise the following powers and duties:

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary.

(Code of Iowa Sec. 336.8(1))

2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.

(Code of Iowa Sec. 336.8(2))

3. To direct and control all the affairs of the library.

4. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the board voting in favor thereof.

(Code of Iowa Sec. 336.8(3))

5. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty, subject, however, to the provisions of Chapter 35C, Code of Iowa.

(Code of Iowa Sec. 336.8(4))

6. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationery and supplies for the library within budgetary limits set by the board.

(Code of Iowa Sec. 336.8(5))

7. To authorize the use of the library by non-residents of the City and to fix charges therefor.

(Code of Iowa Sec. 336.8(6))

8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with Ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.

(Code of Iowa Sec. 336.8(7))

9. To have exclusive control of the expenditure of all funds allocated for library purposes by the City Council, and of all monies available by gift or otherwise for the erection of library buildings, and of all other monies belonging to the library including fines and rentals collected, under the rules of the board.

(Code of Iowa Sec. 336.8(8))

10. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the library.

(Code of Iowa, Sec. 336.8(9))

11. To keep a record of its proceedings.

12. To enforce the performance of conditions of gifts, donations, devises and bequests accepted by the City. The board shall enforce performance by taking action against the City Council.

13. To have authority to make agreements with the local County historical associations, where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for library purposes.

(Code of Iowa Sec. 336.17)

5-1-6 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

1. Contracting. The board may contract with any other boards of trustees of free public libraries, any other City, school corporation, private or semi-private organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the library by their respective residents.

(Code of Iowa, Sec. 336.18(1))

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) percent in number of electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

(Code of Iowa, Sec. 336.18(2)(a and b))

5-1-7 NON-RESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by non-residents in any one or more of the following ways:

1. By lending the books or other materials of the library to non-residents on the same terms and conditions as to residents of the City, or upon payment of a special non-resident library fee.

2. By establishing depositories of library books or other materials to be loaned to non-residents.

3. By establishing bookmobiles or a traveling library so that books or other library materials may be loaned to non-residents.

4. By establishing branch libraries for lending books or other library materials to non-residents.

5. By entering into agreements with other libraries to allow lending of books or other library materials to non-residents.

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the City Council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on orders of the board, signed by its president and secretary. The warrant writing officer is the City Clerk.

5-1-9 ANNUAL REPORT. The board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, the amount of funds collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the City Council.

Editor's Note: The Council may retain the power to hire, discharge, set salaries, expend funds unless the library board was in existence prior to July 1, 1974. (See Sections 5-1-5(4), 5-1-5(5), 5-1-5(9) and 5-1-8.

Any proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate form of administrative agency, is subject to the approval of the voters of the City. See Code of Iowa, Sec. 392.5

TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

CHAPTER 2 PARK REGULATIONS

5-2-1	Purpose	5-2-4	Littering
5-2-2	Use of Drives Required	5-2-5	Parks Closed
5-2-3	Fires	5-2-6	Golfing Prohibited

5-2-1 **PURPOSE** . The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.

5-2-2 **USE OF DRIVES REQUIRED**. No person shall drive any car, cycle or other vehicle, or ride or drive any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

5-2-3 **FIRES**. No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

5-2-4 **LITTERING**. No person shall place, deposit, or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

5-2-5 **PARKS CLOSED**. No person shall enter or remain within any park between the hours of ten o' clock (10:00) p.m. and five o' clock (5:00) a.m., except by City authorization.

5-2-6 **GOLFING PROHIBITED**. No person shall play or practice golf in a public park.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 1 MOBILE HOME REGULATION

6-1-1	Definitions	6-1-5	Emergency and Temporary Parking
6-1-2	Location of Mobile Homes	6-1-6	Traffic Code Applicable
6-1-3	Regulations for the Size and Construction of Mobile Homes	6-1-7	Building Requirements
6-1-4	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-8	Mobile Home Hookups

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

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

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

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

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

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

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

4. “Mobile home park” means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or 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(6))

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

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

6-1-2 **LOCATION OF MOBILE HOMES.** All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-3 REGULATIONS FOR THE SIZE AND CONSTRUCTION OF MOBILE HOMES. The following regulations shall be adhered to:

1. For all building permits issued after February 1, 1997, the principal structure shall have a floor area of not less than seven hundred sixty-eight (768) square feet (230m²) and the minimum dimensions of the main body of the dwelling unit shall not be less than twenty-four feet (24') (7.3m); and

2. All principle structures shall be roofed with a non-metal type of roofing material; and

3. All principle structures shall be sided with a material other than flat or corrugated sheet metal.

4. All mobile homes occupied for residency in the City of Kanawha, Iowa, shall meet minimum HUD specifications as the same may be promulgated from time to time.

6-1-4 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council shall issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of six (6) months but upon expiration of a special permit reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.

2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.

3. A statement of the desired duration of the special permit.

6-1-5 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

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

6-1-7 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation unless it is incompatible with the structural design of the home. Any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement.

(Code of Iowa, Sec. 435.26)

6-1-8 **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 twenty (\$20.00) dollars. No additional permits shall be required.

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

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 Superintendent of Public Works and Utilities of the City of Kanawha 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 as required by the County of Hancock, the State of Iowa and any other responsible entity.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the entity that issued the permit. Authorized representatives of the governing body responsible for the installation shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the proper officials 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 official(s) charged with the responsibility for inspecting the work.

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

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

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

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

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

6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of five (\$5.00) dollars for a residential or commercial building sewer permit and fifteen (\$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 Kanawha and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Kanawha pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Kanawha 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. Backfilling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in

appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

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

6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

b. Non-payment of bills.

c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the

Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).

b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, -in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

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

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

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls

of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

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

6-2-6 PROTECTION FROM DAMAGE.

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

(Code of Iowa, Sec. 716.1)

6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

6-2-8 PENALTIES.

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

2 Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 3 UTILITIES - SEWER RATES

6-3-1	Sewer District Created	6-3-5	Determination and Payment of Rent from Premises with Private Water Systems
6-3-2	Sewer System Defined	6-3-6	Sewer Service Charge System
6-3-3	Who Shall Pay Rent	6-3-7	Equipment Replacement Fund
6-3-4	Rate of Rent and Manner of Payment		

6-3-1 **SEWER DISTRICT CREATED.** One sewer district is hereby created which includes all of the City of Kanawha, Iowa.

6-3-2 **SEWER SYSTEM DEFINED.** For use within this chapter a "sewer system" is composed of main sewers, sewage pumping stations, treatment and disposal plants, lateral sewers, drainage conduits or channels, and sewer connections in public streets for private property.

6-3-3 **WHO SHALL PAY RENT.** Every person, firm or corporation whose premises now or hereafter are directly or indirectly served by a connection to the city sewer system shall pay sewer rent to the city at the rate and in the manner provided in section 6-3-4.

6-3-4 **RATE OF RENT AND MANNER OF PAYMENT.** The rate of sewer rent shall be sixty-five (65%) percent of the net water bill for each premises within the sewer district created in section 6-3-1, and sixty-five (65%) percent of the net water bill for premises outside the district. There shall be a minimum charge of \$13.43 per month for sewer service.

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, 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.

6-3-5 **DETERMINATION AND PAYMENT OF RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS.** Users whose premises have private water system shall pay 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 6-3-4 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 6-3-4.

6-3-6 **SEWER SERVICE CHARGE SYSTEM.** The City hereby established a Sewer Service Charge System whereby revenues will be generated for debt service and operation, maintenance and replacement.

1. There will be two classes of users:

(a) Residential, Commercial and Industrial

(b) Industrial

2. The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided to said premises.

3. All users will be billed based on 65% of the total water bill for the premises per billing period.

In addition to the rates stated above, users that discharge an extra strength waste will be subject to an extra strength service charge. An extra strength waste is defined as a waste having either a BOD concentration equal to or greater than 250 mg/l or a suspended solids concentration equal to or greater than 250 mg/l, or both BOD and suspended solids concentration equal to or greater than 250 mg/l. The following formula will be used to compute the extra strength service charge:

$$C = (W-250) \times (.00000092G)$$

Where: C = Extra Strength Service Charge in dollars
W = Waste Strength in Milligrams per Liter
G = Water Used in Gallons

Negative values will not be credited against the billing. Establishments not providing automatic waste monitoring equipment will be assessed on the basis of BOD and SS as determined by analysis of all 24 hour composite samples collected by the superintendent during the billing period. The waste producer will be required to provide a suitable and secure point for metering and sample collection and shall cooperate in every way with the superintendent. Where it is not feasible to obtain a single representative sample, the superintendent will use past sample results if they are available or may compute a theoretical waste strength based upon similar establishments. Where it is evident that a constituent of the waste significantly inhibits the standard analysis for BOD, the charges may be assessed on the basis of the T.O.C. analysis.

4. All users shall be charged monthly for sewer service according to the respective water meter readings. The minimum charge for the use of the sanitary sewer service shall be \$12.27 per billing period.

5. If any lot, parcel of land, or premises which discharges sewage into the sanitary sewer system, either directly or indirectly obtains part or all of the water used thereon from sources other than the public utility department and the water so obtained is not measured by a meter in a manner which is acceptable to the superintendent, then, in such case the City shall permit the discharge of sewage into its sanitary sewage system only when the owner of such a lot, parcel of land or premises or some other interested party shall at their expense install and maintain a water meter which shall be satisfactory to the superintendent. Such water meter shall be installed so as to measure all water received on such lot, parcel of land, or premises at the above charges and rates shall be applied to the quantity of water received as measured by such meter. However, it shall be deemed impracticable by the superintendent to measure the water used on any lot, parcel of land, or premises, and upon approval of the Council, a flat charge may be made in accordance with the estimated use of water on such lot, parcel of land, or premises.

6. If (1) a lot, parcel of land, or premises discharges sewage into the sanitary sewer system either directly or indirectly, and (2) the superintendent is satisfied that a portion of the water measured by the meter or meters does not and cannot enter the sanitary sewer system, then, in that event, and upon approval by the council, the superintendent is authorized to determine, in such manner and by such method as he

may deem practicable, the percentage of the water measured by the meter which enters the sanitary sewer system. In such case the charges and rates shall be based upon the percentage of the metered water as determined by the superintendent and approved by the council. If the alternative in any such case, the superintendent is authorized to require or to permit the installation of other or additional meters in such a manner that the quantity of water which actually enters the sanitary sewer system may be determined. In such case the charges or rates shall be based upon the amount of water so shown to actually enter the sanitary sewer system.

7. The charges and rates for the use and services of the sanitary sewer system to be made against any lot, parcel of land, or premises situated outside the corporate limits of the city which shall have any active connection with the sanitary sewer system or which shall otherwise discharge sewage either directly or indirectly into the sewer system shall be determined as provided in this chapter and the change or rate shall be those established in this chapter.

8. Each meter shall be considered a separate billing unit in applying the above charges and rates, except that any contribution to the sanitary sewer system whose water supply at a particular location is received through more than one meter shall be billed on the basis of the combined reading of the several meters.

9. Bills and charges for the use and service of the sanitary sewer system shall be made out by the city clerk in accordance with the city's usual and customary practices. The time of making such bills and the period covered thereby shall be in accordance with the meter reading practices of the utility department. All bills shall be payable to the office of the city clerk. Sewer rental charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the clerk to the county treasurer for collection in the same manner as property taxes.

10. The balance of the revenues derived from the rates and charges shall be deposited with the city clerk in the sewer fund. Such revenues shall be used only for the purpose of paying the cost of administering, operating and maintaining the sewer system, to pay the interest and principal on all bonds of the city which have been issued or shall be issued on account of the said system, making improvements to the collection system and treatment works, and to maintain an equipment replacement fund for use at any time in making repairs to the treatment works.

11. The city will review the Sewer Service Charge System annually. The city will periodically conduct a rate analysis, similar to the 1992 Rate Analysis and revise the rates for sewer service to reflect changes in the city's cost of providing said services. The city will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance, including replacement, of the treatment works.

12. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or sludge from the treatment works, or any user which discharges any substance which singly by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each user shall be as approved by the city council.

13. This Sewer Service Charge Ordinance shall take precedence over any terms or conditions of agreements or contracts between the city and any sanitary sewer users which are inconsistent with the requirements of any applicable Federal Acts.

6-3-7 EQUIPMENT REPLACEMENT FUND. The city will establish an Equipment Replacement Fund. The purpose of said fund is to have sufficient capital on hand to make necessary replacements of equipment throughout the useful life of the treatment facility. The Equipment Replacement Fund will be established under the following conditions:

1. An annual deposit of \$800, as determined in the 1992 Equipment Replacement Schedule, or other amount as may be revised by the city council, shall be made into the fund. The money collected each year will be invested to assure the most practical return on the fund.

2. The interest earned will be added to the fund to replace increased treatment equipment costs due to inflation.

3. At least every three years, the Equipment Replacement Fund will be reviewed to assure the required funds are readily available. If the actual replacement expenses differ significantly from estimated expenses, the funding of the Replacement Account will be adjusted accordingly.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 4 UTILITIES - WATER SYSTEM

6-4-1	Enforcement	6-4-14	Discontinuing Service, Fees
6-4-2	Adoption of State Plumbing Code	6-4-15	Disposition of Fees and Charges
6-4-3	Approval Required	6-4-16	Water Rates
6-4-4	Mandatory Connections	6-4-17	Property Owners Responsibility
6-4-5	Permit	6-4-18	Residential Rental Property
6-4-6	Fee for Permit	6-4-19	Rendering Bills
6-4-7	Water Supply Control	6-4-20	Customer Request for Discontinuance
6-4-8	Making the Connection	6-4-21	City Owns Meters
6-4-9	Excavations	6-4-22	Meter Tests
6-4-10	Inspection and Approval	6-4-23	Stopped Meter, Estimating Bill
6-4-11	Completion by the City	6-4-24	Metering Water During Construction
6-4-12	Billing; Payment Dates	6-3-25	Water Works Property
6-4-13	Customer Guarantee Deposits		

6-4-1 **ENFORCEMENT.** The Superintendent of Public Works and Utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

6-4-2 **ADOPTION OF STATE PLUMBING CODE.** The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted. An official copy of the State Plumbing Code as adopted and a certified copy of this Ordinance are on file in the office of the City Clerk for public inspection.

6-4-3 **APPROVAL REQUIRED.** All installation of water service pipes and connections to the municipal water system shall be made by a plumber approved by this City. The Superintendent shall have the power to suspend the privileges of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

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

6-4-5 **PERMIT.** Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-4-3 of this Ordinance.

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

6-4-6 **FEE FOR PERMIT.** Before any permit is issued, the person who makes the application shall pay \$15.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating and inspecting the work.

6-4-7 **WATER SUPPLY CONTROL.** The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground. It shall be the responsibility of the landowner to keep this valve in proper working order at all times.

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

In the event the shut-off valve is found to be inoperable, the landowner shall have ten (10) days to make the necessary repairs. If the landowner is unable or unwilling to make the necessary repairs the superintendent or his assistant shall order the repairs done and all expenses shall be assessed to the landowner. Water service will be resumed at the time repair costs have been paid in full.

The outside shut off and stop box shall be under the sole control of the City and no one except an employee or person specially authorized by the City Council shall open the cover of such box, or turn on or off the water. Provided, however, that approved plumbers/contractors may turn off or on the water for testing plumbing or making repairs, but whenever so used to shut off must be left closed if found closed, and open if found open, by the plumber/contractor who uses it.

6-4-8 **MAKING THE CONNECTION.** Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

6-4-9 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement of freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-4-10 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

6-4-11 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

6-4-12 BILLING, PAYMENT DATES. Payment of bills shall be as follows:

1. Bills for water service are due and payable at City Hall or to any designated agent, on their date of issue. The past due date shall be the twenty fourth (24th) day after the date of issue. Bills will be dated and mailed approximately on the first of each month. A late payment charge of ten (\$10.00) dollars shall accrue after the past due date.

2. All bills not paid on or before the past due date shall be termed delinquent, and the city shall serve on the customer a written final notice of said delinquency. If a delinquent bill is not paid within ten (10) days after date of such final notice, the water supply to the customer may be discontinued without further notice.

3. Meters will be read as near the end of each month as practical as determined by the City employee responsible for reading meters.

6-4-13 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-fifty (\$150.00) dollars. Such deposit shall be applied to any bill for water service delinquent more than twenty (20) days. Upon the disconnection of the water service, or customers having established acceptable credit records for three (3) years, the balance of such deposit shall be returned to the applicant without interest.

If water service is discontinued for non-payment of bills, and the deposit is applied to an outstanding bill, a new deposit shall be required for restoring service. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk, upon Council approval to require a new or larger deposit for the continuation of service.

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

6-4-14 DISCONTINUING SERVICE, FEES.

1. The water superintendent, or his authorized assistant, shall shut off the supply of water to any customer who, not having contested the amount billed in good faith, has failed to pay the bill for water on or before the tenth (10th) day after sending notice in writing that the water supply will be shut off after the following procedures have been complied with:

a. The City Clerk shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."

b. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The time of notice shall be such that the deadline shall not fall on Friday or the day before a holiday. The clerk shall send such notice immediately following the delinquent date. When a Sunday or legal holiday intervenes during the ten (10) days' notice period, such days shall not be counted. The decision of the Mayor is final.

If payment is tendered to the utility representative at the time he/she is at the property to discontinue the service, there shall be added a service fee of twenty-five (\$25.00) dollars. This fee shall be in addition to the regular payment and associated late fees, and the representative shall give the customer a receipt for said payment of bill and fee. The reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the city have been paid. No turn-on fee or service fee shall be charged for the usual or customary trips in the regular changes in occupancies of property, whether the meter is removed for the safety of the meter, or not removed.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of twenty-five (\$25.00) dollars shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

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 landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

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

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

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

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

6-4-15 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the city treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be filed with the clerk.

6-4-16 WATER RATES. Water shall be furnished at the following monthly rates per building within the city limits:

\$20.66 plus \$7.87 per 1,000 gallons of water use in excess of 2,625 gallons.

Building as used in this Ordinance shall mean only those buildings that have mandatory water connections pursuant to 6-4-4 and shall exclude outbuildings. The minimum charge shall be \$20.66 per building per monthly billing period.

If any account is not paid within sixty days from the end of any given period, the account shall be delinquent. If any such charge is not paid the same shall constitute a lien upon the premises served by said municipal water collection system, which said lien shall be collected in the same manner as taxes.

6-4-17 PROPERTY OWNERS RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served 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 or maintenance of said water service pipe.

6-4-18 RESIDENTIAL RENTAL PROPERTY.

A. Residential rental property where a charge for any of the services of water, sewer systems, storm water drainage systems, sewage treatment is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice within thirty (30) days to the City Clerk that the property is residential rental property and that the tenant is liable for the rates or charges.

B. The City of Kanawha requires a deposit of one hundred-fifty (\$150.00) dollars for services of water, sewer systems, storm water drainage systems, sewage treatment, to be paid to the City. Upon receipt, the City Clerk shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins.

C. A change in tenant shall require a new deposit and written notice and to be given to the City Clerk within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City Clerk shall return the deposit, if the charges for the services of water, sewer systems, storm water drainage systems, sewage treatment are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the City Clerk within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment if the repair charges become delinquent.

A lien shall not be imposed for a delinquent charge of less than five dollars. The City shall charge an administrative fee of five (\$5.00) dollars for certifying and filing the lien, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor.

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

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

6-4-19 RENDERING BILLS. Bills, and notices relating to the conduct of city water business will be mailed to the customer at the address listed on the application, unless another address has been filed in writing with the City Clerk and the City shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from payment of a bill, or from any performance required in said notice. 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.

6-4-20 CUSTOMER REQUEST FOR DISCONTINUANCE. A customer desiring to discontinue the water service to his premises for any reason, must give notice of discontinuance in writing at the clerk's office. Otherwise the customer shall remain liable for all water used and service rendered by the city until said notice is received by the city clerk-treasurer.

6-4-21 CITY OWNS METERS. All meters shall be installed, repaired or replaced by the City. However, customers will be responsible for maintaining and ensuring that care is taken to protect the meters from damage. There will be a charge of \$25.00 plus the cost of a meter if a meter has to be replaced because of customer's failure to maintain. The City reserves the right to determine the size and type of meter used.

6-4-22 METER TESTS. Upon the written request of any customer, the meter serving said customer shall be tested by the city. Such test shall be made without charge to the customer if the meter is determined to be defective. If the meter is found not to be defective and within a limit of two (2) percent accuracy, the customer requesting the test may be charged \$25.00 in addition to the cost of the meter to be added to the water bill.

6-4-23 STOPPED METER, ESTIMATING BILL. 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.

6-4-24 METERING WATER DURING CONSTRUCTION. Water for building or construction purposes will be furnished by meter measurement, only after a fee of \$25.00 in addition to a prorated cost of a meter and a deposit of seventy-five (\$75.00) dollars has been made. All water for building or construction purposes, as set forth in the permit, must pass through one and the same meter.

A. 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.

6-4-25 WATER WORKS PROPERTY. It shall be unlawful to break, injure, mar, or deface, interfere with or disturb any building, machinery apparatus, fixtures attachments or appurtenance of the water works, or any hydrant, stop cock box, or commit any act tending to obstruct or impair the intended use of any of the above mentioned property, without permission of the City Council or excepting cases herein otherwise provided by Ordinance.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 5 UTILITIES - REFUSE COLLECTION

6-5-1	Definitions	6-5-6	Refuse Other Than Garbage
6-5-2	Duty to Remove	6-5-7	Separation and Collection of Yard Waste
6-5-3	Storage	6-5-8	Sanitary Landfill
6-5-4	Necessity of Permits		
6-5-5	Open Burning Restricted		

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. "Can". Means a container for the storage of garbage or rubbish which is:

- a. Provided with a handle and tight fitting cover.
- b. Substantially made of galvanized iron or other non-rusting material.
- c. Water-tight.
- d. Of a size that may be conveniently handled by the collector.

6-5-2 **DUTY TO REMOVE.** Each person or household shall be responsible for the collection and removal of all garbage, refuse, and solid waste from their premises by an approved waste hauler or directly to an approved landfill.

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 **STORAGE.** All garbage must be drained and that accumulated from dwellings must be wrapped in paper or in a plastic bag and placed in a can. All rubbish shall be placed in a can except as otherwise provided.

6-5-4 **NECESSITY OF PERMIT.** Waste haulers shall be licensed by the State of Iowa, be bonded and insured to operate within the corporate limits of the City of Kanawha.

6-5-5 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials, except that the following shall be permitted:

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

2. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the Iowa Department of Natural Resources.

3. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the executive director of the Iowa Department of Natural Resources receives notice in writing at least one week before such commences.

4. Variance. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the executive director of the Iowa Department of Natural Resources.

5. Leaves and Yard Waste. Open burning of yard waste shall be subject to such times as selected by the mayor by proclamation.

6. Prairie Plantings. Any person wishing to conduct open burning of prairie plantings for proper management may make application to the city clerk. Open burning of prairie plantings shall be subject to such times as selected by the mayor.

7. Garbage, Rubbish or Refuse. 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.

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.

6-5-6 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.

6-5-7 SEPARATION AND COLLECTION OF YARD WASTE. All persons shall separate yard waste from other solid waste and garbage and store yard waste in separate containers for collection.

6-5-8 SANITARY LAND FILL. The city council by resolution may designate a sanitary landfill.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 6 UTILITIES – STORM SEWER UTILITY

6-6-1	Purpose	6-6-3	Amount of Charge
6-6-2	Definitions	6-6-4	Exempt From Charges

6-6-1 **PURPOSE.** The purpose of this Chapter is to establish a Storm Water Utility which shall be responsible for storm water management within the corporate boundaries of the City of Kanawha, Iowa, and shall provide for the management, protection control, regulation use and enhancement of storm water management systems and facilities. The City Council approves service charges to fund this utility.

6-6-2 DEFINITIONS.

1. “Customers of storm water utility” include all persons, properties and entities served by and or benefiting from the utility’s acquisition, management, maintenance, extension and improvements of the public storm water management facilities.

2. “Service charge” means the periodic rate, fee or charge applicable to a parcel of developed land. Such service charge shall continue monthly and be added onto the water/sewer bill of customers and be subject to the collection procedure for such bills.

6-6-3 AMOUNT OF CHARGE.

1. All customers will be charged \$3.50 per month for the first budget year that the ordinance is enacted. (2018)
2. At the start of the following three (3) years, the fee will increase fifty (\$0.50) cents each year until the fee reached \$5.00.
3. Once the fee reaches \$5.00 the fee shall not be changed unless the City Council takes action to do so.

6-6-4 **EXEMPT FROM CHARGES.** The following properties shall be exempt from any charge hereunder:

1. Houses of worship, all property owned by the City of Kanawha, property owned by the Kanawha Community Pool, Inc.

2. Lots with no building, or permanent structures located thereon.

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.
(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 for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-7-3 **PERMIT FEES.** The permit fee shall be fifteen (\$15.00) dollars 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 fifteen (\$15.00) dollars 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 Chief of Police 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 Superintendent of Public Works and Utilities 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 SIDEWALK REGULATIONS

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

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

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

1. **Defective Sidewalk.** Any public sidewalk exhibiting one or more of the following characteristics:

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

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

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

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

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

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

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

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

(Code of Iowa, Sec. 364.14)

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

6-8-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30)

days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa. (Code of Iowa, Sec. 364.12(e))

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

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

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block

which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

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

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

6-8-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-8-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

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

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

6-8-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or

destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

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

(Code of Iowa, Sec. 384.38)

6-8-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

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

(Code of Iowa, Sec. 384.51)

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

(Code of Iowa, Sec. 384.60)

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 9 DANGEROUS BUILDINGS

6-9-1	Enforcement Officer	6-9-5	Conduct of Hearing
6-9-2	General Definition of Unsafe	6-9-6	Posting of Signs
6-9-3	Unsafe Building	6-9-7	Right to Demolish
6-9-4	Notice to Owner	6-9-8	Costs

6-9-1 **ENFORCEMENT OFFICER.** The Mayor, Chief of Police or Fire Chief of the City of Kanawha, has the authority to enforce this chapter.

6-9-2 **GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter or any ordinance, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657.1 & 364.12[3a])

6-9-3 **UNSAFE BUILDING.** "Unsafe building" shall mean any structure or mobile home meeting any or all of the following criteria:

1. **Collapse of Member.** Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. **Wind Resistance.** 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 (20) pounds per square foot.
3. **Material Deterioration .** 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. **Various Inadequacies.** Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; © the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
5. **Manifestly Unsafe.** 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. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

7. Deterioration. whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

8. Damaged Structurally. 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 © enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

10. Fire Hazard. 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 Fire Marshal or Fire Chief to be a fire hazard.

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

12. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6-9-4 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer 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 (48) 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 (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not re-occupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

(Code of Iowa, Sec. 364.12 [3hi])

1. Notice Served. Such notice shall be served by sending by Certified Mail to owner of record, according to Section 364.12[h] of the Code of Iowa, if he shall be found within the City limits. If he is not

found within the City limits such service may be made upon said owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date he receives such notice.

2. Hearing. Such notice shall also advise the owner that he may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

6-9-5 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Nature. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

6-9-6 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF RUDD, IOWA." 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 enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

6-9-7 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner shall fail, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

(Code of Iowa, Sec. 364.12[3h3])

6-9-8 COSTS. Costs incurred under 6-9-7 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Auditor for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

(Code of Iowa, Sec. 364.12[3h3])

TITLE VII SPECIAL ORDINANCES

CHAPTER 1 TAX EXEMPTION

7-1-1	Intent	7-1-7	Repealer
7-1-2	New Construction	7-1-8	Application for Exemption
7-1-3	Reconstruction	7-1-9	Prior Approval
7-1-4	New Machinery and Equipment	7-1-10	Effective Date
7-1-5	Duration	7-1-11	Severability Clause
7-1-6	Limitation on Tax Exemption	7-1-12	Amount of Exemption

7-1-1 **INTENT.** The city council declares it to be in the intention of this chapter to provide for a partial exemption from property taxation of the new actual value added to the industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph e of the 1991 Code of Iowa, as set forth in Chapter 427B, Code of Iowa, 1991.

7-1-2 **NEW CONSTRUCTION.** "New construction" means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building of the structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the city council of the city upon the recommendation of the Iowa Development Commission. New construction does not include the rezoning of or the acquisition of undeveloped real property.

7-1-3 **RECONSTRUCTION.** New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the city council of the city upon the recommendation of the Iowa Development Commission.

7-1-4 **NEW MACHINERY AND EQUIPMENT.** The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph e of the 1991 Code of Iowa unless machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

7-1-5 **DURATION.** The partial exemption shall be available until such time as this chapter is repealed by the city council of the City of Kanawha, Iowa.

7-1-6 LIMITATION ON TAX EXEMPTION. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

7-1-7 REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

7-1-8 APPLICATION FOR EXEMPTION. An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the director of revenue and shall contain information pertaining to the nature of the improvement, its costs, and other information deemed necessary by the director or revenue.

7-1-9 PRIOR APPROVAL. A person may submit a proposal to the city council of the city to receive prior approval for eligibility for a tax exemption on new construction. The city council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the city. The prior approval shall also be subject to the hearing requirements of Section 362.3 of the 1991 Code of Iowa. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the city council to approve or reject.

7-1-10 EFFECTIVE DATE. The effective date of this ordinance shall be upon final passage and publication, which will not be less than thirty (30) days after the council holds a public hearing on this ordinance as approved in Chapter 362.3 of the 1991 Code of Iowa.

7-1-11 SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

7-1-12 AMOUNT OF EXEMPTION. The actual value added to industrial real estate for the reasons specified in Section 7-1-1 hereof is eligible to receive a partial exemption of taxation for a period of five (5) years. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

4.	For the first year,	75 percent.
5.	For the second year,	60 percent.
6.	For the third year,	45 percent.
7.	For the fourth year,	30 percent.
8.	For the fifth year,	15 percent.

However, the granting of the exemption under this section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the state of the new construction added.

TITLE VII SPECIAL ORDINANCES

CHAPTER 2 NATURAL GAS FRANCHISE

The Natural Gas Franchise Ordinance granted to Interstate Power and Light Company is contained in its entirety in the Office of the City Clerk in City Hall, Kanawha, Iowa, and is hereby included by reference.

TITLE VII SPECIAL ORDINANCES

CHAPTER 3 ELECTRIC FRANCHISE

The Electric Franchise Ordinance granted to Interstate Power and Light is contained in its entirety in the Office of the City Clerk in City Hall, Kanawha, Iowa, and is hereby included by reference.

TITLE VI SPECIAL ORDINANCES
CHAPTER 4 TELEPHONE FRANCHISE

The Telephone Franchise Ordinance granted to Norway Rural Telephone Company is contained in its entirety in the Office of the City Clerk in City Hall, Kanawha, Iowa, and is hereby included by reference.

The ordinance adopting a telephone franchise for the City of Kanawha, was passed unanimously and adopted June 14, 1988. The franchise was approved by the city's voters on October 11, 1988.

TITLE VII FRANCHISES

CHAPTER 5 CABLE TELEVISION FRANCHISE

The Cable Television Franchise Ordinance granted to Communications 1 Network on May 13, 2008 for a period of twenty-five (25) years is contained in its entirety in the Office of the City Clerk in City Hall, Kanawha, Iowa, and is hereby included by reference.

TITLE VII SPECIAL ORDINANCES

CHAPTER 6 VACATION OF STREETS AND ALLEYS

7-6-1 Procedure For Vacating Streets

7-6-3 Format For the Municipal Code

7-6-2 Sale of City Property

7-6-1 **PROCEDURE FOR VACATING STREETS.** The vacation of a street or alley shall be by an ordinance passed after notice and hearing. A vacation may be proposed either to end the use of a city street or alley for roadway purposes so that it may be used for other city purposes or to sell to a private party or to sell or give to another public agency. A vacation shall promote the public good and not be solely for private benefit. The council shall cause an ordinance to be prepared to vacate the specifically described public way, and shall direct the clerk to cause notice to be published, in the newspaper customarily used to give city notices, of the time and place of a hearing on the ordinance. The notice shall give the description of the property. Said notice shall be published once at least four, but not more than twenty days before the hearing. The ordinance shall recite findings of fact justifying the vacation, including a finding that there is no further need for the property as a public way, and that no abutter shall lack reasonable access to his property after the vacation.

7-6-2 **SALE OF CITY PROPERTY.** Where city property is to be sold, including property formerly used as a right-of-way, the council shall pass a resolution giving the description of the parcel(s) to be sold, stating the names of the parties who are proposed buyers and the price for the parcel(s), calling a hearing thereon and directing the clerk to publish notice thereof, giving time and place, and the recital of description, proposed buyer(s), and price(s) proposed. Where property is to be sold, unless the public benefit dictates otherwise, the council shall inform the public, either by notice or in the published minutes, that it contemplates the sale. It may negotiate with the buyer(s) that the council deems proper, but the negotiated sale price of any city property shall be as close to market value as feasible, but in no case less than the cost of the proceedings, including publication, and preparation of the deed if there is little market value. Preference shall be given to abutters but in all cases the sale shall serve the public interest and support the most equitable end result. The time of notice shall be as required by state law.

Where a vacated street or alley is to be immediately sold, the notice of vacation and hearings may be published simultaneously with notice of hearings on sale, but the vacation shall be decided upon and precede the sale. Upon hearing comments on the sale, the council may determine to proceed by passing a resolution declaring the sale, directing the city attorney to prepare the deed(s), the mayor to convey by his signature, and the clerk to attest to the mayor's signature and affix the city seal on the deeds to the parties named in the final council action. As a condition of the sale the city shall require that the purchaser must show proof to the clerk of recording before the sale shall be deemed final.

7-6-3 **FORMAT FOR THE MUNICIPAL CODE,** The portion of the ordinance following the section reciting the findings shall be the section amending the municipal code by enacting sections for each distinct vacation. Such sections shall contain three subsections headed as follows:

A. Vacation. Description of parcels, and declare the vacation.

B. Conveyance. Naming the purchasers of each parcel and authorizing the mayor to sign and the clerk to sign his attest and affix the city seal, and deliver the necessary deeds.

C. Conditions. Recite, if any, such as retention or creation of sewer water, electric or pedestrian easements.

TITLE VII PHYSICAL ENVIRONMENT

CHAPTER 7 SUBDIVISION REGULATIONS

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- 7-7-1 Short Title
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- 7-7-4 Amendment
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GENERAL PROVISIONS

7-7-1 **SHORT TITLE.** This ordinance shall be known as the "Subdivision Ordinance" of the City of Kanawha, Iowa.

7-7-2 **PURPOSE.** The purpose of this ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing land uses 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 Kanawha, Iowa.
(Code of Iowa, Sec. 354.1 and 364.1)

7-7-3 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations December 27, 1996 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 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)

7-7-4 AMENDMENT. When necessary to further its purpose, this ordinance shall be amended in accordance with the text amendment procedure for the Zoning Ordinance by the Planning Commission and the Governing Body.

7-7-5 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Kanawha, Iowa, as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this ordinance.

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

(Code of Iowa, Sec. 354.9)

7-7-6 FEES ESTABLISHED. The Governing Body shall, from time to time establish by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the City Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Governing Body, and as required by this ordinance.

7-7-7 PENALTIES. Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved by the Governing Body, and recorded as required by law, shall forfeit and pay one hundred dollars (\$100.00) for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this ordinance.

7-7-8 BUILDING PERMIT TO BE DENIED. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this ordinance, and until the improvements required by this ordinance have been accepted by the City.

DEFINITIONS

7-7-9 TERMS DEFINED. For the purposes of this ordinance, certain words herein shall be defined as

and interpreted as follows. Words used in this 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 Kanawha, 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 December 27, 1996.

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 Kanawha, 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 designated 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 December 27, 1996 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 March 14, 2000, 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 a 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

7-7-10 **IMPROVEMENTS REQUIRED.** The subdivider shall, at 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.

7-7-11 **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.

7-7-12 **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.** The subdivider of land being subdivided shall provide the grading of the entire street

right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.

2. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City, become the property of the City.

3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in accordance with plans and specifications of the City and at sewer grades established by the City.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a storm sewer system that is larger than necessary to meet the needs of the platted area, but necessary to complete the city storm sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

The sewers shall, upon inspection, approval and acceptance by the City, become the property of the City. In the storm sewer design phase, consideration shall be given to alternatives and principles of storm water management, or the provisions of a storm water management plan if such plan has been adopted by the City.

4. Water Main System. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City's existing water mains.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area.

The water mains shall, upon inspection, approval, and acceptance by the City, become the property of the City.

5. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area; the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking area; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the City Engineer or director of the electric utility, as appropriate.

7-7-13 EASEMENTS REQUIRED.

1. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than ten (10) feet in width shall be granted by the owner along rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across, lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

2. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at said subdivider's expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

7-7-14 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds satisfactory to the City, so as to insure that for a period of one (1) year from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

7-7-15 ALTERNATIVE SYSTEMS FOR SEWER OR WATER. Where connection to the City sewer or water system cannot reasonably be made the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health safety and welfare, and shall meet all requirements of state, county, or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a waiver of assessment protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

7-7-16 STANDARDS PRESCRIBED. The standards set forth in this ordinance shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.
(Code of Iowa, Sec. 364.1)

7-7-17 LAND SUITABILITY. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City.

If land is found to be unsuitable for subdivision for any of the reasons cited in this Section, the Governing Body shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Governing Body may reaffirm, modify or withdraw its determination regarding such unsuitability.

7-7-18 LANDS SUBJECT TO FLOODING. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the Zoning Ordinance for the zone in which the lot is located.

Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

1. Included within individual lots in the subdivision, subject to the limitations of this Section.
2. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.
3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

7-7-19 PLAT TO CONFORM TO COMPREHENSIVE PLAN. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to a Major Street Plan, a Sanitary Sewer System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the City.
(Code of Iowa, Sec. 354.8)

7-7-20 CONSTRUCTION STANDARDS FOR IMPROVEMENTS. In addition to the Standards set forth in this ordinance, the City Engineer shall from time to time prepare, and the Governing Body shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements.

Upon adoption by the Governing Body by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

7-7-21 **STREET STANDARDS.** The following standards shall apply to all streets to be located within the subdivision:

1. Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Comprehensive Plan or the Street Plan, the plat shall provide for such street.

2. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.

3. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.

4. Street right-of-way widths and pavement widths shall be as specified in the Comprehensive Plan, the Streets Plan, or technical standards for public improvements.

5. Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

6. Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.

7. Street jogs with centerline offsets of less than one hundred twenty five feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.

8. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty (60) degrees.

9. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

10. Dead end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.

11. Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted. Cul-de-sacs should not exceed 600 feet in length unless a greater length is unavoidable.

12. In general, alleys shall be permitted in residential areas and required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

13. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Governing Body, be made a requirement of the plat.

14. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Governing Body.

15. Private streets, not dedicated to the City, shall be avoided. The Governing Body may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

7-7-22 BLOCK AND LOT STANDARDS. The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions:

1. No residential block shall be longer than thirteen hundred (1,300) feet or shorter than three hundred (300) feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.

2. In blocks over seven hundred (700) feet in length, the Governing Body may require a public way or an easement at least ten (10) feet in width, at or near the center of the block, for use by pedestrians.

3. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the zoning ordinance.

4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

5. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zone in which the lot is located.

6. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least thirty-five (35) feet measured as a straight line between the two front lot corners.

7. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Governing Body, a variation to this provision will provide a better street and lot layout.

9. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the zoning ordinance, oriented to either street.

10. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

11. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drainfield. No subdivision to be served by septic systems shall be approved by the Governing Body until percolation tests have been performed and the results of said tests have been provided to, and reported on, by the City Engineer.

7-7-23 PARKS AND OPEN SPACE. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space, provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefiting from such open space.

7-7-24 PARKS AND SCHOOL SITES RESERVED. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

(Code of Iowa, Sec. 354.6(2))

1. Proposed park sites shall be reserved for three (3) years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (½) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three (3) years, the subdivider may then amend the final plat.

2. Proposed school sites shall be reserved for three (3) years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (½) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three (3) years, the subdivider may then amend the final plat.

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

7-7-25 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 Plats Officer. The conference should be attended by the Plats Officer and such other City or Utility representative 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.

7-7-26 **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.

7-7-27 **PRESENTATION TO PLANNING COMMISSION OR GOVERNING BODY.** The subdivider may present the sketch plan to the Planning Commission and Governing Body for review, prior to incurring significant costs preparing the preliminary or final plat.

7-7-28 **SUBDIVISION CLASSIFIED.** Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. **Minor Subdivision.** 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 subdivision.

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.

7-7-29 **PLATS REQUIRED.** In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the City, plats and other information as required by this ordinance. 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)

7-7-30 **REQUIREMENTS OF THE PRELIMINARY PLAT.** The subdivider shall prepare and file with the City Clerk four (4) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.

(Code of Iowa, Sec. 355.8(6))

2. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the county. The Plats Officer shall verify with the County Auditor that the proposed subdivision name is not duplicating an existing subdivision name in the county.

(Code of Iowa, Sec. 354.6(2) and 355.8(5))

3. The name and address of the owner and the name, address and profession of the person preparing the plan.

4. A key map showing the general location of the proposed subdivision in relation to surrounding development.

5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.

(Code of Iowa, Sec. 355.8(18))

6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.

7. Existing and proposed zoning of the proposed subdivision and adjoining property.

8. 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.

9. The legal description of the area being platted.

10. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.

11. The layout, numbers and approximate dimensions of proposed lots.

12. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.

13. The proposed names for all streets in the area being platted. The Plats Officer shall verify that the proposed street names do not duplicate existing street names in the City unless such names are a continuation of an existing street.

14. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.

15. Proposed easements, showing locations, widths, purposes and limitations.

16. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.

17. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

18. Any other pertinent information, as necessary.

19. The fee, as required by this ordinance.

7-7-31 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.

1. The City Clerk, upon receipt of four (4) copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat to the Plats Officer.

2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Planning Commission.

3. The Planning Commission shall examine the plat and the report of the City Engineer, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Comprehensive Plan and other duly adopted plans of the City. The Planning Commission shall, within forty-five (45) days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the Governing Body. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.

4. The Governing Body shall examine the plat, the report of the City Engineer, the report of the Planning Commission, and such other information as it deems necessary or desirable. Upon such examination, the Governing Body shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Comprehensive Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the Governing Body may approve, subject to conditions, or disapprove the plat. If the decision of the Governing Body is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Governing Body, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Governing Body shall be taken within sixty (60) days of the filing of the plat with the City Clerk.

7-7-32 DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the Governing Body shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the Governing Body.

7-7-33 AUTHORIZATION TO INSTALL IMPROVEMENTS. The approval of the preliminary plat shall constitute authorization by the Governing Body for the installation of improvements as required by this ordinance, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvement have been submitted to, and approved in writing by, the City Engineer.

7-7-34 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before the Governing Body will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

7-7-35 PERFORMANCE BOND PERMITTED. In lieu of the requirement that improvements be

completed prior to the approval of a final plat, the subdivider may post a performance bond with the City, guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.

7-7-36 REQUIREMENT OF THE FINAL PLAT. The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, four (4) copies of the final plat and required attachments, as set forth in this ordinance. 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.

The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") nor smaller than eight and one-half inches by eleven inches (8 ½" x 11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

The final plat shall be clearly marked "Final Plat" and show the following:

1. The name of the subdivision.

(Code of Iowa, Sec. 354.6(2) and 355.8(5))

2. Name and address of the owner and subdivider.

3. Scale, and a graphic bar scale, north arrow and date on each sheet.

(Code of Iowa, Sec. 355.8(4) and (6))

4. All monuments to be of record, as required by Chapter 355, Code of Iowa.

(Code of Iowa, Sec. 355.8(7))

5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.

(Code of Iowa, Sec. 355.8(12))

6. All distance, bearing, curve, and other survey data, as required by Chapter 355, Code of Iowa.

(Code of Iowa, Sec. 355.8)

7. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

(Code of Iowa, Sec. 355.8(18))

8. Street names and clear designation of public alleys.

(Code of Iowa, Sec. 354.6(2))

9. Block and lot numbers.

(Code of Iowa, Sec. 354.6(2))

10. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.

11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

(Code of Iowa, Sec. 355.8(19))

12. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat".

13. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Governing Body.

(Code of Iowa, Sec. 354.6(2))

14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

(Code of Iowa, Sec. 355.8(15))

15. A statement by a registered land surveyor that the plat conforms to Section 409A.8 of the Code of Iowa, was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

(Code of Iowa, Sec. 355.8(21))

7-7-37 ATTACHMENTS TO THE FINAL PLAT. The following shall be attached to and accompany any final plat:

1. A certificate by the owner and said owner's spouse, if any, that the subdivision is with their free consent, and 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 acknowledgment of deeds.

(Code of Iowa, Sec. 354.11(1))

2. 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))

3. A certificate from the County Treasurer that the subdivision land is free from unpaid taxes.

(Code of Iowa, Sec. 354.11(5))

4. A certificate from the Clerk of the District Court that the subdivision land is free from all

judgements, attachments, or mechanics or other liens of record in said Clerk of District Court's office.

5. A certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

6. 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)

7. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

8. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, "as built" plans for all improvements shall have been provided to the City Engineer. In lieu thereof, the City Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Governing Body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.

9. Where the improvements have been installed, a resolution accepting and approving such improvements along with the maintenance bond required by this ordinance.

10. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.

11. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11(4))

12. The applicable fee, if any.

7-7-38 PROCEDURES FOR THE REVIEW OF FINAL PLATS.

1. The City Clerk, upon receipt of four (4) copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Plats Officer.

2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Governing Body.

3. The Plats Officer and the City Engineer shall examine the plat as to its compliance with Section 409A.8 of the Code of Iowa, the ordinances and standards of the City, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

4. If the plat is found to substantially conform to the preliminary plat as approved, the final plat shall be forwarded to the Governing Body for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Planning Commission for review, prior to review by the Governing Body. The Planning Commission shall then review the plat and shall forward a written recommendation thereon to the Governing Body within forty-five (45) days of the filing of the plat with the City Clerk. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefor shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.

5. Upon receipt of the plat and written reports thereon, the Governing Body shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Governing Body shall approve the plat, and shall cause its approval to be entered on the plat as required by law.

6. Action on the final plat by the Governing Body shall be taken within sixty (60) days of the date of filing of the plat with the City Clerk. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Governing Body and such decision shall be provided to the subdivider.

OTHER PROVISIONS

7-7-39 VARIANCES. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements 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 secured, provided, however, that such variance modification or waiver will not have the effect of nullifying the intent and purpose of this ordinance. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Governing Body may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

7-7-40 EXTRATERRITORIAL REVIEW AGREEMENT. The City may negotiate an extraterritorial review agreement between the City of Kanawha and Hancock County, for the standards and conditions applied by the City for review and approval of a subdivision as provided in Section 354.9 of the Code of Iowa.

The City of Kanawha shall apply the same standards and conditions for review and approval of a subdivision in the extraterritorial review area as established in Section 7-7-3 of the City of Kanawha Municipal Code.

The City of Kanawha may, by resolution, waive its right to review the subdivision or waive the requirement of any of its standards or conditions for approval of the subdivision in the extraterritorial area after a recommendation to do so from the Planning Commission. 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 within the City unless waived by the Governing Body.
(Code of Iowa, Sec. 354.8 and 354.9)

TITLE VII PHYSICAL ENVIRONMENT

CHAPTER 8 ZONING ORDINANCE

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7-8-1 **SHORT TITLE.** This chapter shall be known and may be cited and referred to as the "Zoning Ordinance" to the same effect as if the full title were stated.

7-8-2 **INTERPRETATION AND PURPOSES.** It is not intended by this chapter to annul, repeal, or in any way interfere with existing provisions of easements, covenants, or other agreements between parties or which shall be adopted pursuant to law relating to the use of buildings or premises. However, provided that where this chapter establishes a greater restriction upon the use of premises, or the use, or heights of buildings, or requires larger courts, yards, or open spaces than are required by existing provisions of law, ordinances, regulations or permits, the provisions of this chapter shall control.

7-8-3 **DEFINITIONS.** For the purpose of this chapter, words and phrases used herein are hereby defined. All words used in the present tense shall include the singular and the plural; the word "building" shall include the word "structure." The word "shall" is mandatory. Unless otherwise specified, all distance shall be measured horizontally.

A. "Accessory Building" shall mean a subordinate building, the use of which is incidental to that of the main building or to the main use of the premises. Private garages are accessory buildings.

B. "Administrative Officer" shall mean person or persons designated by the council to administer the Zoning Ordinance, and who are responsible for the enforcement of the regulation imposed by said ordinance.

C. "Adult amusement or entertainment" means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing, or relating to sex acts or specified anatomical areas, as defined herein, including (but not limited to) topless or bottomless dancers, exotic dancers, strippers, male or female impersonators, topless or bottomless performance of any kind, or similar entertainment.

D. "Adult entertainment businesses" include the following:

1. "Adult bookstore" means an establishment having a significant portion of its stock in trade books, films, magazines, and other periodicals or goods and items held for sale which are distinguished or characterized by and emphasis on matter depicting or describing sex acts or specified anatomical areas.
2. "Adult hotel or motel" means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing sex acts or specified anatomical areas for observation by the individuals therein.
3. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
4. "Adult motion picture theater" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
5. "Adult photo studio" means an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or sex acts, as defined herein.
6. "Massage parlor" means any building, room place, or establishment where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on sex acts or specified anatomical areas, by anyone not duly licensed physician, osteopath, chiropractor, registered nurse, or practical nurse operating under a physician's direction, physical therapist, registered speech pathologist and physical or occupational therapist who treat only patients recommended by a licensed physician and operating only under such physician's direction, whether with or without the use of mechanical therapeutic, or bathing devices. The term does not include a regular

licensed hospital, medical clinic, or nursing home, duly licensed beauty parlors, or barber shops.

7. "Sex encounter center" or "Adult Performing Arts Center" means any business, agency, or person who, for any form of consideration or gratuity, provides a place where people may congregate, assemble, or associate for the purpose of engaging in sex acts or exposing specified anatomical areas.

E. "Alley" shall mean a public thoroughfare which affords only a secondary means of access to abutting property.

F. "Apartment House" see Dwelling, Multiple

G. "Basement" shall mean a story partly underground by having at least one half of its height above the curb level and also one half of its height above the highest level of the adjoining ground. A basement shall be counted as a story if used or intended to be used for dwelling or business purposes.

H. "Block" shall mean property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets, or nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.

I. "Building" shall mean any structure having a roof supported by walls or by columns intended for enclosure, shelter or housing of persons, animals or chattel. When any portion thereof is separated by party walls without any window, door, or other openings, each portion so separated shall be deemed a separate building.

J. "Building, Height of" shall mean the perpendicular distance measured in a straight line from curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs, the measurement in all cases to be taken through the center of the front of the building. Where a building is situated on ground above the curb level, such height shall be measured from the level of the adjoining ground. Where a building is on a corner lot and there is more than one grade or level, the measurements shall be taken from the main entrance elevation.

K. "Cellar" shall mean a story having more than one half of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.

L. "Curb Level" shall mean the level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the city council of the City of Kanawha, Iowa, shall establish such curb level or its equivalent for the purpose of this chapter.

M. "Dwelling, Single Family" shall mean a detached building arranged, designed or intended to be occupied as the residence of a single family and having no party wall in common with an adjacent house or houses.

N. "Dwelling, Two Family" shall mean a detached building that is arranged, designed or intended to be occupied as the residence of but two (2) families or housekeeping units living independently of each

other.

O. "Dwelling, Multiple" shall mean an apartment house or dwelling used or intended to be used or occupied as a residence of three (3) or more families or housekeeping units independently of each other.

P. "Family" shall mean a group of individuals living and cooking together on the premises as one (1) housekeeping unit, but a family shall not include a group of more than four (4) individuals not related by blood or marriage.

Q. "Garage, Private" shall mean an accessory building or portion of a building in which one (1) or more motor vehicle is housed, but in which no business service or industry connected with motor vehicles is carried on.

R. "Lodging House" shall mean a building where lodging is provided for compensation for five (5) or more, but not exceeding twenty (20) persons not members of the family there residing.

S "Lot" shall mean a parcel of land, which may include a fractional part of a lot, or a lot or lots, or fractions thereof, occupied or intended for occupancy by a use permitted in this chapter, including one (1) main building together with its accessory buildings, open spaces, and parking spaces required by this chapter and having its principal frontage upon a street.

T. "Lot, Corner" shall mean a lot which has at least two adjacent sides abutting upon a street.

U. "Lot, Depth of" shall mean the average horizontal distance between the front and rear lot lines.

V. "Lot, Double Frontage" shall mean an interior lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

W. "Lot, Interior" shall mean a lot other than a corner lot.

X. "Lot Lines" shall mean the lines bounding a lot as defined herein.

Y. "Non-conforming Use" shall mean lawful use of a building or land at the time of the enactment of this chapter (January 16, 1967) or the amendment thereto, which use does not conform with the provisions of this chapter for the district in which it is located.

Z. "Parking Space" shall mean an area enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

AA. "Public Notice" shall mean the publication of the time and place of any public hearing, by one (1) publication in a newspaper of general circulation, which notice shall be published at least fifteen (15) days prior to the date of hearing.

BB. "Setback Line" shall mean a line parallel with the street line and at a distance equal to the depth of the front yard as required by this chapter.

CC. "Sex acts" means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between finger of one person and the genitalia of another, or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

DD. "Story" shall mean that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between the floor and the ceiling next above it.

EE. "Specified anatomical areas" include the following: human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.

FF. "Story, Half" shall mean a story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

GG. "Street" shall mean a public thoroughfare, other than an alley, which affords access to abutting property.

HH. "Street Line" shall mean a dividing line between a lot, tract or parcel of land and a contiguous street.

II. "Structure" shall mean anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground.

JJ. "Structural Alteration" shall mean any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

KK. "Trailer Coach" shall mean any vehicle used or so constructed as to permit its being as a conveyance upon the public streets or highways and duly licensable as such, and shall include self-propelled vehicles, so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons and having no permanent foundation and supported by wheels, jacks or similar supports.

LL. "Trailer Park" shall mean any place where one or more trailer coaches used for human habitation are temporarily or permanently parked, placed or located except where the owner of a trailer temporarily parks same in the yard of his private home.

MM. "Yard, Front" shall mean the required space, unobstructed to the sky, open for the whole width of the lot extending from the nearest part of any building on the lot to the front lot line, excluding cornices, eaves, gutters, or chimneys projecting not more than twenty-four (24) inches, steps, bay windows or similar features not extending through more than one-third (1/3) of the width of the frontage of the building, and vestibules not more than one story in height and extending not more than three (3) feet beyond the front wall.

NN. "Yard, Rear" shall mean the required open space, unobstructed to the sky, extending along the rear lot line (not a street line) throughout the whole width of the lot to the rear of the principal building, excluding the cornices, eaves, gutters, chimneys projecting not more than twenty-four (24) inches,

uncovered steps, open porches not more than a story in height, and eight (8) feet in width, and accessory buildings.

OO. "Yard, Side" shall mean the required open space, unobstructed to the sky, extending along the side lot line from the front yard to the rear yard, excluding cornices, eaves, gutters, chimneys, and bay windows, not exceeding two (2) feet in width or similar features extending not more than one story in height which project into the side yard.

7-8-4 ZONING ADMINISTRATOR. The council shall appoint an administrative officer, and it shall be the duty of said officer to enforce this chapter. The administrative officer may be a person holding other public office in the City of Kanawha, Iowa.

7-8-5 BUILDING PERMITS. Building permits are required as follows:

A, Permit Required. It shall be unlawful to commence or to proceed with erection, construction, reconstruction, alteration, enlargement, extension, or moving of any building, structure, or any portion thereof without first having applied in writing to the administrative officer for a building permit to do so and until a building permit has been granted therefore.

B. Application Contents. Every application for a building permit shall be in writing and delivered to the administrative officer, and shall be accompanied by a detailed set of plans in duplicate, showing the size of the proposed building or structure, its location on the lot, the materials of which it is to be constructed and the details and type of construction to be used. Upon the issuance of the permit, one set of said plans may be retained by the administrative officer and one set shall be returned to the applicant. The administrative officer may at his own discretion permit the substitution of a written statement covering the essential information required in place of said plans.

C. Forms Provided. Blank forms shall be provided by the administrative officer for use of those applying for permits as provided in this chapter. Any permits issued by the administrative officer shall be on standard forms for such purpose and shall be furnished by the city.

D. Record Maintained. A careful record of all such applications and permits shall be kept in the office of the administrative officer.

E. Fees. The fees to be charged for building permits shall be \$25.00:

F. Expiration of Permit. Any building permit under which no construction work has been commenced within six (6) months after the date of issue of said permit, or under which the proposed construction has not been completed within one (1) year of the date of issue shall expire by limitation; and no work or operation shall take place under such permit after such expiration.

G. Permit Issued. A permit in writing shall be issued by the administrative officer when the application and the investigation thereof indicates compliance by the applicant with all the provisions of this chapter and all other controlling ordinance and all other controlling ordinances of the City of Kanawha, Iowa, and the laws of the State of Iowa.

7-8-6 BUILDINGS UNDER CONSTRUCTION. If actual construction has been started on any building at the time of the passage of the zoning ordinance, (January 16, 1967) nothing contained herein shall require any change in the plans, construction or designated use of any such building or part thereof.

7-8-7 CHANGES AND AMENDMENTS. The council may, on its own motion or on petition, after public notice and hearing as provided by law, and after report by the zoning commission, amend, supplement, or change the boundaries or regulations herein or subsequently established. Any owner or owners of property may present a petition duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least fifty (50) percent of the area included in such proposed change and by the owners of fifty (50) percent of the property within two hundred (200) feet therefrom, and said petition shall be filed with the zoning commission. The zoning commission shall make report to the council within sixty (60) days from the date of receipt of such petition. In case of a protest against any proposed amendment or change signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or those immediately adjacent in the rear thereof, extending the depth of one (1) lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the council.

7-8-8 VIOLATION AND PENALTY. Any person, firm, corporation, or other association of persons who violates, omits, disobeys, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall, upon conviction, be fined not more than one hundred (\$100) dollars or imprisoned for not more than thirty (30) days for each offense. After notification in writing by the administrative officer, each day that a violation is permitted to exist beyond the expiration of the time designated in said notice shall constitute a separate offense.

7-8-9 ADDITIONAL REMEDIES. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this chapter, the council or any property owner or owners, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land; or to prevent any illegal act, conduct, business or use in or about such premises.

ZONING DISTRICTS

7-8-10 DISTRICTS ESTABLISHED. For the purpose of this chapter, the City of Kanawha is divided into four (4) districts and said districts shall be known as:

"R" Residence District

"B" Business District and Light Industry District

"I" Heavy Industry District

"P" Public Grounds

7-8-11 DISTRICTS OUTLINED, DEFINED, AND DESCRIBED. The boundaries of these districts are hereby established and designated as following:

A. Public Grounds District. The "P" public grounds district shall include the following:

All of Block Two (2); Lots One (1) through Fourteen (14) and Lots Twenty-One (21) and Twenty-Two (22), Block Seven (7), Town of Kanawha, Iowa; all of a tract lying East of the Original Town of Kanawha commencing at the Northeast Corner of the Original Town of Kanawha, thence East 600' thence South 930', thence West 600', thence North 930' to point of beginning.

B. Heavy Industry District. The "I", Heavy Industry District, shall include the following:

Lots Seven (7) through Eleven (11), Block Eighteen (18); all of Block Seventeen (17) and that portion of Out-Lot One (1), Town of Kanawha, Iowa lying South of East First Street; all railroad property lying South of the Original Town of Kanawha, Iowa, and;

That part of Section Twenty-seven (27), Township Ninety-Four (94) North, Range Twenty-five (25) West of the Fifth Principal Meridian, Hancock County, Iowa described as follows: Beginning 930' South of the center line of East 5th Street at its intersection with the center line of Locust Street, thence east to the north-south center line of Section 27, thence south to the center of Section 27, thence west to a point 233' east of the center line of South Main Street, thence north to the Chicago and Northwestern Transportation Company railway right-of-way, thence east to a point due south of the center line of Locust Street, thence north to the point of beginning, and;

That part of Section Twenty-eight (28), Township Ninety-Four (94) North, Range Twenty-five (25) West of the Fifth Principal Meridian, Hancock County, Iowa lying south of the Chicago and Northwestern Transportation Company right-of-way described as follows: Beginning at the intersection of the center line of the railroad and South Main Street, thence west Five Hundred Eighty-five (585) feet, thence South to a point due west of the border of Lot Ten (10) and Lot Twelve (12) of John K's Addition to the Town of Kanawha, thence east to the center line of the alley between the odd and even numbered lots of John K's Addition, thence north along the center line of said alley to the a point where a line drawn between the south borders of Lot One (1) and Lot Two (2) of John K's addition would intersect the center line of said alley, thence east to the center line of South Main Street, thence north along the center line of South Main Street to the point of beginning, and;

That part of the Southeast Quarter (SE ¼) of Section Twenty-one (21), Township Ninety-four (94) North, Range Twenty-five (25) West of the Fifth Principal Meridian, described as follows: Beginning at the Northeast (NE) corner of the Southeast (SE) Quarter thence South along the centerline of North Main Street one thousand seventy-three feet four inches (1,073' 4"), thence West one hundred seventy-five feet (175'), thence South seventy-five feet (75'), thence West to the center line of the open main ditch of drainage district number twenty-six (26) right-of-way (also known as Otter Creek) thence Northeasterly along the center of said right-of-way to the North border of the Northeast Quarter of the Southeast Quarter (NE ¼ SE ¼) thence East to the point of beginning.

C. Business District. The "B" Business District and light industry district shall include the following:

Lots One (1) through Seventeen (17), Twenty-one (21), and Twenty-two (22) of Block Eleven (11), Town of Kanawha, Iowa. All of Block Fifteen (15), Town of Kanawha, Iowa. Lots One (1) through Twelve (12), and Lots Twenty (20) through Twenty-two (22), Block Ten (10), Town of Kanawha, Iowa.

All of Block Fourteen (14), Town of Kanawha, Iowa. Lots Nine (9) through Sixteen (16), Block Sixteen (16), Town of Kanawha, Iowa. Lots One (1) through Six (6), Block Eighteen (18), Town of Kanawha, Iowa. All of Block Nineteen (19), Town of Kanawha, Iowa. The West 200' lying South of the Chicago and Northwestern Transportation Company railway right-of-way of the Northwest Quarter (NW Section 27, Township Ninety-four (94) North, Range Twenty-five (25) West of the Fifth Principal Meridian.

D. Residential District. The "R" residential district shall include all other lots in the Town of Kanawha except that included in "P", "I", and "B" Districts.

7-8-12 ANNEXED AREA. Any addition to the incorporated area of the city resulting from annexation by the City of Kanawha, or otherwise, shall be automatically classified as in the "R" Residence District until otherwise classified by amendment.

7-8-13 VACATED STREETS OR WAYS. Whenever any street, road, or public way is vacated by official action of the city, the zoning district adjoining each side of such street, road, or public way shall be extended automatically to the center of such vacation and all area included in the vacation shall be subject to all the regulations of the extended district.

REGULATIONS

7-8-14 GENERAL REGULATIONS. The following regulations shall be applicable in all zoning districts:

A. Platting Required. Not more than one (1) dwelling is permitted on any lot, tract or parcel of land until the same has been subdivided according to Iowa Statute.

B. Reduction of Lot Size Limited. No lot shall hereafter be so reduced in area that any required yard or other space will be smaller than is prescribed in this chapter for the district in which it is located.

C. Building Defined. Any portion of a building which is covered by a roof and which is enclosed on three (3) or more sides shall be considered as a part of the building.

D. Yard Space. No yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot, and no yards or other open space about an existing building or any building hereafter constructed for the purpose of complying with the provisions of this chapter, shall be considered as providing a yard or open space for any other building.

E. Animals. The keeping or raising of poultry, livestock, or rodents is prohibited except on premises containing two acres or more and except within an enclosure distant at least one hundred (100) feet from any residence now existing or hereafter erected.

F. Mobile Homes. No trailer coach, whether on wheels, foundation, or other supports shall be kept and used for human habitation in the Town of Kanawha, Iowa, except in duly established and licensed trailer parks.

G. Mobile Home Lots. Not less than one thousand (1,000) square feet of area which area shall be at least twenty-five (25) feet wide, shall be provided for each and every trailer coach.

H. Junk Yards, Auto Salvage Yards, Material Recycling Yards or Architectural Salvage Yards. No junk yards, auto salvage yards, material recycling yards or architectural salvage yards are to be permitted in the City of Kanawha, Iowa, or in any of the districts described in Section 7-8-11

7-8-15 AUTOMOBILE PARKING. The following parking provisions shall apply to buildings hereafter erected, except those rebuilt on the same site.

A. Dwellings . Each single family, two family, and multiple family dwelling shall provide parking space on the lot occupied by the main building, or garage space in the main building or in an accessory building sufficient to accommodate one (1) motor car for each family or dwelling unit.

B. Motels and Lodging Houses. Motels and lodgings houses shall provide at least one (1) off-street parking space for each individual sleeping or living unit.

C. "R" District - Garages. In any "R" District a private garage is permitted in the side or rear yard on the same lot with a dwelling, either as a separate building or a separate room within, or attached to the dwelling provided that space for not more than three (3) motor vehicles is permitted on one lot. When wholly or partially within the limits of the side yard and attached to, or separate room with a principal building such garage shall be considered as a part of such principal building and shall conform to all yard and space requirements as specified in this chapter for principal buildings. When wholly or partially within the limits of a rear yard and attached to a principal building, such garage, if one (1) story in height, may extend into the rear yard the distance its rear wall is beyond the rear wall of the principal building.

D. "B" and "I" District - Garages. In any "B" District or "I" District, public or private garages, or accessory buildings are permitted on any part of the lot.

E. Yard Clearances Required. Each detached private garage or accessory building shall be not less than two (2) feet from a party lot line or alley line except that when any part of such building is within fifty (50) feet of any street or public place upon which the lot abuts, such building shall be not less than six (6) feet from any lot line which serves as the front portion of a side lot line to any adjoining property.

F. Garage in Front Yard Prohibited. No detached garage or accessory building is permitted within the limits of a front yard, unless entirely below natural ground level.

G. Garage On Side Yard. If any portion of a detached garage or other accessory building is within a side yard of a principal building on the same lot, such accessory building shall not be nearer to the side lot line than would be required for the building wall of a principal building on the same lot. In interpreting this regulation each twelve (12) feet in height of the accessory building shall be considered a story.

H. Accessory Buildings. Accessory buildings within a rear yard may occupy not more than thirty-five (35) percent of such area.

I. Detached Garages. No detached garage or accessory building may be placed in any rear yard or any side yard so that any part of such building is nearer a street line than is permitted for a wall of a principal building on the same lot or abutting lot.

J. Auditoriums and Stadiums. Church, school, and college auditoriums, theaters, general auditoriums, stadiums, and other similar places of public assembly which are erected on new sites shall provide one (1) off street parking space for each twenty (20) seats of the audience seating capacity provided in the main auditorium. Said parking space shall be provided on the same lot as the place of public assembly or on another lot within five hundred (500) feet of said place of public assembly.

K. "R" Districts. In any "R" District, offices or studios of professional persons and funeral homes shall provide one (1) off-street parking space for each three hundred (300) square feet of floor space in the building devoted to the aforementioned uses.

L. Institutions. Hospitals, clinics, sanitariums, dispensaries, and welfare institutions shall provide at least one (1) off-street parking space for each five hundred (500) square feet of floor area in said buildings, such space to be located within three hundred (300) feet of the buildings.

M. "I" District. In any "I" District, at least one (1) off-street parking space for each executive officer, or employee shall be provided.

7-8-16 NONCONFORMING USES. Except as specified in subsection G of this section the lawful use of a building existing at the time of the adoption of this zoning ordinance (January 16, 1967) may be continued, although such use does not conform with the provisions hereof subject to the following provisions:

A. Extension. Such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance, are made therein.

B. Change In Use Permitted. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

C. Building Removed. If a nonconforming building is removed, the future use of such premises shall be in conformity with the provisions of this chapter.

D. Use Discontinued. If the nonconforming use of a building is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the provisions of the district in which it is located.

E. Limit On Change of Use. When a nonconforming use has been changed to a conforming use or to a more restricted nonconforming use, such use shall not thereafter be changed to a less restricted use.

F. Zoning Classification Changed. If, by amendment to this chapter, any property is hereafter zoned to a more restricted district by a change in district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification, the provisions of this chapter relating to the nonconforming use of buildings or land existing at the time of the enactment of this zoning ordinance (January 16, 1967) shall apply to buildings or land occupied or used at the time of the passage of such amendment.

G. Building Damaged. No nonconforming building which has been damaged by fire, explosion, Act of God, or the public enemy to the extent of more than sixty-five (65) percent of its value, shall be

restored until a permit is secured from the board of adjustment, as provided in section 7-8-32(D).

DISTRICT REGULATIONS

7-8-17 **APPLICABILITY.** Except as otherwise provided, no building or premises shall hereafter be used, and no building shall be extended, erected, converted, moved, rebuilt, or altered except in conformity with all the district regulations established by this chapter for the district in which it is to be located and until a building permit has been secured from the administrative officer, as provided herein.

7-8-18 **HEIGHT LIMITATIONS.** No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which such building is located.

7-8-19 **AREA REGULATIONS.** No building shall be erected, converted, enlarged, reconstructed, or structurally altered except if in conformity with the area regulations of the district in which such building is located.

7-8-20 **BUILDINGS FRONT.** Except in "I" District, the principal building on a lot shall front on a street.

7-8-21 **"R" DISTRICT REGULATIONS.** The following regulations shall be applicable in "R" Residence Districts:

A. Permitted Uses. Within "R" Districts, as defined and described, only the following premises or buildings uses shall be permitted.

1. Single or two-family dwellings. Nothing herein shall prohibit the serving of meals, the renting of rooms, or both, to four or less persons not members of the family there residing, provided there is no display of advertising.

2. Public playgrounds and parks.

3. Municipal, state, or federal buildings.

4. No more than two (2) accessory buildings may accompany a residential building. Accessory buildings are not to be used as a dwelling for humans. A garage or carport attached to a residence is considered as one (1) accessory building. The combined square footage of two (2) accessory buildings shall not exceed 1,200 square feet. If there is one (1) accessory building of 1,200 square feet or more on the property, a second accessory building shall not be allowed.

5. Offices or studios of professional persons, or space for home occupations. A home occupation shall be defined as an occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. Home occupations:

- a. Are customarily carried on in a dwelling unit, and;

- b. Are carried on by a member of the family residing in the dwelling unit;

- c. Are clearly incidental and secondary to the use of the dwelling unit for residential purposes; and,
- d. Does not employ more than one (1) person outside the immediate family; and,
- e. Has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one (1) exterior sign, mounted flush with the exterior of the building, which sign shall not exceed two foot by two foot (2' X 2') in area, and shall not have flashing lights, Section 7-8-21M to the contrary notwithstanding, and,
- f. Does not occupy more than thirty (30) percent of the area of one (1) floor of the dwelling unit; and,
- g. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood; and,
- h. Does not generate traffic in sufficiently greater volumes than would normally be expected in a residential area.
- i. Does not have hours available to the public before 7:00a.m. or after 10:00 p.m. on Mondays through Saturdays, nor at any time on Sundays.

The proprietor of such home occupation shall pay to the City Clerk an annual fee of \$25.00 for each year or portion thereof, which fee shall automatically renew on January 1 of each year.

- 6. Churches.
- 7. Apartment houses.
- 8. Multiple dwellings.
- 9. Lodging houses.
- 10. Any uses permitted in "B" Districts if on tracts of One (1) acre or more.

B. Minimum Lot Area. Every dwelling hereafter erected shall provide a lot area of not less than six thousand (6,000) square feet per family for single-family dwellings or three thousand (3,000) square feet per family for two-family dwellings.

C. Minimum Lot Width. No lot, tract, or parcel of land in a residence district shall hereafter be platted or reduced to an area of less than six thousand (6,000) square feet, or to an average width of less than fifty (50) feet.

D. Maximum Building Height. Principal buildings in an "R" District shall not exceed two and a

half (2 ½) stories or thirty-five (35) feet in height, except that for public and semi-public buildings, church steeples, towers, and spires shall be excluded from these requirements. Accessory buildings in an "R" District shall not exceed twenty (20) feet in height.

E. Front Yard. In any "R" District a front yard not less than twenty-five (25) feet in depth is required on each lot, except that whenever thirty (30) percent or more of the frontage on one side of a street in any block has been built up with buildings having a front yard, then the building line of buildings to be erected shall not be less than that of the natural building line of the block as determined by existing buildings.

F. Public Buildings - Front Yard. The front yard depth for a church, community building, hospital, or similar institution erected or structurally altered in any "R" District shall be thirty (30) percent in excess of those specified in this chapter for principal buildings in such districts.

G. Side Yard. There shall be a side yard on each side of each principal building. Except as specified in Paragraph H herein, the side yard for a principal building in any "R" District shall be at least six (6) feet in width, which side yard shall be increased in width at least three (3) feet for each additional story or fraction thereof, that the principal building exceeds one (1) story in height. An accessory building may not sit closer than six (6) feet to any lot line.

H. Side Yard - Public Buildings. The required minimum width of side yards for a church, hospital, or similar building in any "R" District shall be fifty (50) percent in excess of side yards required in Paragraph G herein. Church steeples, towers, or spires shall be excluded from this requirement.

I. Corner Lots. In any "R" District all corner lots shall have two (2) front yards and two (2) side yards.

J. Accessory Buildings. No accessory building on a corner lot shall project beyond the set back line of the lots in the rear.

K. Rear Yard. In any "R" District, there shall be a rear yard of not less than twenty (20) feet. An accessory building may occupy not more than thirty-five (35) percent of a required rear yard and may not sit closer than six (6) feet to any lot line.

Where the rear yard of any lot abuts a railroad right-of-way, no rear yard is required.

L. Real Estate Signs. In any "R" District, one (1) real estate advertising sign is permitted when limited to advertising for sale, rental, or lease, the premises, lot, or tract on which it is located, provided such sign shall be distant as far as possible from abutting property and at least twenty-five (25) feet from any street line, or not more than five (5) feet in front of any principal building which is set back less than thirty (30) feet from the street line. The area of any such sign shall not exceed four (4) square feet.

M. Other Signs. In any "R" District announcement signs or bulletin boards are permitted, provided such signs or boards do not exceed or total more than twenty (20) square feet in area and are erected upon the premises of a charitable, religious, or public institution for its own use and are not erected within twenty (20) feet of a street lot line or not more than five (5) feet in front of the main building. Only one (1) such sign shall be permitted on any lot or tract.

N. Lighted Signs. The signs which are permitted in Subsections L and M of this section may be illuminated but shall not be an intermittent flashing type.

O. Fences. Fences in residential Districts shall not exceed four (4) feet in height in any required front yard, and shall not exceed six (6) feet in height in any side or rear yard.

In the case of a corner lot, fences in yards adjacent to the intersection of two public rights-of-way shall be constructed of materials that provide openings of not less than 75 percent in area of the vertical surface of the fence to permit transmission of light, air and vision through the vertical surface at a right angle for a minimum of 30 feet in each direction measured from the corner of the fence closest to the intersection of the public rights-of-way

Fences in excess of six (6) feet will be allowed in the cases of tennis courts and swimming pools.

Fences shall be placed no closer than two (2) feet to any rear or side lot line and no closer than eighteen (18) inches to any front lot line. The owner of the lot upon which the fence is constructed shall have the burden of proving compliance with these restrictions.

Posts, supporting rails and other such supporting elements when located to one side of the screening materials shall be on and shall face the property on which the fence is located.

Fences constructed of railroad ties, corrugated sheet metal, barbed wire, or salvage material shall not be allowed. However, nothing herein shall be construed to prohibit the use of railroad ties for landscaping.

Fence posts shall be of wood or steel or other materials pre-approved by the zoning administrator and shall be embedded into tamped earth or concrete, to a depth that would assure its structural stability.

7-8-22 "B" DISTRICT REGULATIONS . The following regulations shall be applicable in "B" Business and Light Industry Districts:

A. Permitted Use. Within any "B" District, as defined and described, only the following premises or building uses shall be permitted:

1. Any use permitted in "R" District.
2. A retail store or trade shop where goods are stored or displayed for sale or services rendered, and where nothing is fabricated, manufactured, converted, or altered, except for such retail trade. A portion of any store or shop may be arranged and used as a dwelling.
3. Trailer parks subject to all the provisions of all existing ordinances of the City of Kanawha and statutes of the State of Iowa; motels, tourist courts, and cabin camps, provided that after public hearing held by the council, the establishment of any such use shall meet the approval of the council.
4. No gasoline filling station shall hereafter be erected within the "B" District or any other district so that any entrance or exit for vehicles is within fifty (50) feet of any Residential District or within

two hundred (200) feet of any previously existing assembly hall, theater, public library, church, public school, public playground, or community building, hospital, children's or old people's home, or similar instruction.

5. Hotels.
6. Trailer coaches.
7. Taverns and state liquor stores.
8. Grain Storage.

B. Maximum Building Height. Buildings in any "B" District shall not exceed three (3) stories or forty-five (45) feet in height, except for communication antennae and towers.

C. Front Yard. In a "B" District which adjoins a "R" Residence District within the same block the front yard requirements are the same as specified in subsection 7-8-21(E).

D. Side Yard. In any "B" District no side yards are required, however, if a side yard is provided it shall be not less than five (5) feet in width.

7-8-23 "I" DISTRICT REGULATIONS . The following regulations shall be applicable in "I" Heavy Industry Districts:

A. Permitted Uses. Within any "I" District, as defined and described, only the following premises or building uses shall be permitted:

1. Any use permitted in the "B" District, except taverns and state liquor stores.
2. Grain elevators.
3. Railroad freight and passenger stations and grounds.
4. Grain drying, storage facilities, and mixing and milling subject to 7-8-23(A) (5) hereof.
5. Any other commercial enterprise which is not noxious or offensive due to the emission of odor, gas, dust, smoke, noise, vibration, soot, or explosion and not a menace to public health or safety, and which will not substantially or permanently injure the appropriate use of neighboring property.
6. Adult entertainment businesses

B. Front Yard. In an "I" District which adjoins a "R" Residence District within the same block the front yard requirements are the same as specified in subsection 7-8-21(E).

C. Side Yard. In any "I" District no side yards are required, however, if a side yard is provided it shall be not less than five (5) feet in width.

D. Location. No adult entertainment business, as defined herein, shall be established within 1,000 feet of another business, school, church, public park, public playground, day nurseries, day care center, nursery school, regularly scheduled school bus stop, or any dwelling (one-family, or multiple-family).

E. Establishment of Adult Entertainment Business. The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described as an adult entertainment business.

1. The measurement of the 1,000-foot restriction shall be taken on a direct line from the property line of such adult entertainment business to the point property line of another business, school, church, public park, public playground, day nurseries, day care center, nursery school, regularly scheduled school bus stop, or any dwelling (one-family, or multiple-family).

2. All buildings used for adult entertainment business shall have openings, entries, windows, etc., constructed, located, covered, or screened in such a manner as to prevent a view into the interior of such building from any pedestrian sidewalk, walkway, street, or other public or semi-public area. Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible to the public from the pedestrian sidewalks, walkways, or other public or semi-public area.

3. No alcohol shall be permitted in any adult entertainment business, unless specifically authorized by Iowa Law. This prohibition applies equally to the proprietor and the patrons of the adult entertainment business.

4. No minor (any person under 18 years of age) shall be permitted in any adult entertainment business.

7-8-24 "P" DISTRICT REGULATIONS . The following regulations shall be applicable in "P" Public Grounds Districts:

A. Permitted Uses. Within any "P" District, as defined and described, only the following premises or building uses shall be permitted: town hall, town parks, water works system, library, armory, fire station, public schools and adjoining grounds, and any other federal, state, or municipally owned enterprise.

BOARD OF ADJUSTMENT

7-8-25 CREATION AND MEMBERSHIP. A Board of Adjustment, to be hereinafter referred to as the board, is hereby established. The board shall consist of five (5) members appointed by the mayor, subject to the approval by the council. The five members of the first board appointed shall serve terms of one (1), two (2), three (3), four (4), and five (5) years, respectively. Thereafter, terms shall be for five (5) years, and vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Members shall be removed for cause by the appointing authority upon written charges and after public hearing. All members of the board shall serve without compensation. The board, subject to the approval of the council, may employ such clerical and technical assistance as may be needed to carry on its work.

7-8-26 **CHAIRMAN AND MEETINGS.** The board shall adopt its own rules of procedure, not in conflict with this chapter or the Iowa Statute, to enable it to perform its functions and duties.

The board shall elect its own chairman, who shall serve for one (1) year. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. All meetings of the board shall be open to the public.

7-8-27 **BOARD SECRETARY.** The clerk, or such other employee as the council may designate, shall serve as the secretary of the board. In the absence of the secretary, the chairman of the board may appoint one of the members of the board to act as secretary pro tem for the meeting. The board shall have the power to call on any city department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required.

7-8-28 **MINUTES KEPT.** The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board.

7-8-29 **APPEALS.** Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Kanawha affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

7-8-30 **PUBLIC HEARING.** The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney.

7-8-31 **STAY OF ACTION.** Any appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer certifies to the board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his option, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the administrative officer and on due cause shown.

7-8-32 **JURISDICTION.** The board shall have the following powers:

A. Errors. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the administrative officer in the enforcement of this chapter.

B. Special Exceptions. To hear and decide special exceptions to the terms of this chapter upon which the board is required to pass under this chapter.

C. Interpret Zoning Map. Where the street or lot lay-out on the ground actually varies from the street and lot lines as described herein, the board shall interpret the map and the provisions of this chapter

in such way as to carry out the intent and purposes of this chapter for the particular district or section in question.

D. Reconstruction of Nonconforming Use. To permit the reconstruction, within one (1) year, and use as before of a nonconforming building destroyed or damaged to more than sixty-five (65) percent of its value by explosion, fire, Act of God, or public enemy, or other public calamity, where the board finds that the public needs require a continuance of the nonconforming use and that such continuance would not primarily permit a continuation of a monopoly.

E. Public Utilities. To permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which is determined reasonably necessary for the public convenience or welfare.

F. Variance. To authorize upon appeal in specific cases such variance from the terms of this chapter, as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions herein will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. The board shall be satisfied by evidence heard before it that the granting of such variance will alleviate a hardship approaching confiscation as distinguished from a special privilege sought by the owner. However, in residential districts, variances may only be granted with respect to setback, area, width, depth, height, off-street parking, or screening restrictions and not as to use restrictions.

G. Resolve Uncertainties. To determine in cases of uncertainty, the classification of any use. To determine, in cases of uncertainty, industrial uses which may be established in any "I" District according to the terms of Paragraph 7-8-23(A)(5).

H. Accessory Building Use. To permit the erection and use of any accessory building on a lot before the erection of a principal building on such lot as provided herein; provided such use is temporary and for a period of time not to exceed one (1) year.

I. Extension of Use Into More Restricted District. To permit the extension of an existing building or use into a more restricted district immediately adjacent under such conditions as will safeguard the character of the more restricted district, provided that such extension shall not be permitted more than fifty (50) feet beyond the boundary line of the district in which such building or use is authorized.

J. Permit Unspecified Uses. To permit any use in a district that is not specifically prohibited in such district, and that is in keeping with and appropriate to the uses authorized in such district by the provisions of this chapter.

7-8-33 EXERCISE OF POWERS. In exercising the abovementioned powers, the board may, in conformity with the provisions of this chapter reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

7-8-34 VOTE REQUIRED. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer, or to decide in

favor of the applicant on any matter upon which it is required to pass under this chapter or to affect any variation in chapter. It is not the intention to grant the board the power or authority to alter or change the Zoning Ordinance. Such power and authority rests solely with the city council, in the manner hereafter provided in section 7-8-7.

7-8-35 APPEAL TO COURTS. Any person or persons, jointly or severally, aggrieved by any decision of the board under the provisions of this chapter, or any taxpayer or any officer, department, board, or bureau of the City of Kanawha, Iowa may seek such relief through the courts as provided by statute.

TITLE VII SPECIAL ORDINANCES

CHAPTER 9 URBAN REVITALIZATION AREA

Section 1. Purpose and Intent. Chapter 404 of the *Code of Iowa, 2017*, provides that a city may designate areas as revitalization areas eligible for property tax exemptions and authorizes cities to issue revenue bonds for improvements made within those revitalization areas.

On March 14, 2017, the City of Kanawha adopted a Resolution finding that the rehabilitation and redevelopment of certain areas of the City of Kanawha would be desirable and that said area qualifies under Section 404.1 of the *Code of Iowa, 2017*, for designation as a Revitalization Area.

The City Council of the City of Kanawha has deemed it appropriate to utilize the incentives of the Revitalization Act as contained in Chapter 404 of the *Code of Iowa, 2017* to promote rehabilitation and redevelopment as well as new development.

The City Council of the City of Kanawha has complied with all of the provisions of Chapter 404 of the *Code of Iowa, 2017*, relating to the designation of certain areas of cities as revitalization areas, and has waived the requirement of notification of tenants as there is no reliable mailing list, and has heretofore adopted a revitalization plan covering specific areas of the City of Kanawha as described below.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KANAWHA, IA, as follows:

Section 2. Description. The following described real estate is hereby designated as the Kanawha Urban Revitalization Area:

The boundaries for the Kanawha Urban Revitalization Area shall include all land area located within the corporate limits of the City of Kanawha, Iowa.

Section 3. Benefits. The benefits of revitalization shall be only to the extent provided by the revitalization plan as heretofore adopted by the City Council of the City of Kanawha, and that any person, firm, corporation or other entity seeking to utilize the benefits of revitalization shall comply with the requirements set forth in that revitalization plan as hereby adopted.

Section 4. Repealer. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. Severability. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 6. Effective Date. This ordinance shall be in full force and effect from and after its publication, approval and passage as provided by law.

PASSED, ADOPTED AND APPROVED this 13th day of June, 2017.

TITLE VII SPECIAL ORDINANCES

CHAPTER 10 FLOODPLAIN MANAGEMENT ORDINANCE

FLOOD PLAIN MANAGEMENT ORDINANCE

SECTION I - Statutory Authority, Findings of Fact and Purpose

- A. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
- B. Findings of Fact
1. The flood hazard areas of Kanawha are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
 2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

C. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of Kanawha and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section IB1 of this Ordinance with provisions designed to:

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

SECTION II - General Provisions

A. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the city of Kanawha which are located within the boundaries of the Flood Plain (Overlay) District as established in Section III.

B. Rules for Interpretation of Flood Plain (Overlay) District

The boundaries of the Flood Plain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Council shall make the necessary interpretation. The Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Council in the enforcement or administration of this Ordinance.

C. Compliance

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

D. Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

E. Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

F. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part Kanawha or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

G. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION III - Establishment of Flood Plain (Overlay) District

The areas within the jurisdiction of the City of Kanawha having special flood hazards are hereby designated as a Flood Plain (Overlay) District and shall be subject to the standards of the Flood Plain (Overlay) District (as well as those for the underlying zoning district). The Flood Plain (Overlay) District

boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Hancock County and Incorporated Areas, City of Kanawha, Panels 19081C408D, 0409D, 0416D, 0417D, 0425D, dated April 4, 2018.

SECTION IV - Standards for Flood Plain (Overlay) District

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

A. All development within the Flood Plain (Overlay) District shall:

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

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

C. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures:

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
3. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Factory-built homes:

1. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
2. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

F. Utility and Sanitary Systems:

1. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
2. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

3. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
 4. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
- H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
- I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.
- K. Accessory Structures
1. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
 - a. The structure shall be designed to have a low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.
 - b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
 - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

- d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
 - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
 - f. The structure's walls shall include openings that satisfy the provisions of Section IV (D) 1 of this Ordinance.
2. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles

1. Recreational vehicles are exempt from the requirements of Section IV E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
 - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
2. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section IV E of this Ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

SECTION V - Administration

A. Appointment, Duties and Responsibilities of Zoning Administrator

1. The City Clerk along with the Superintendent of Public Works is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
2. Duties of the Administrator shall include, but not necessarily be limited to the following:
 - a. Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.
 - b. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
 - c. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the

Flood Plain (Overlay) District.

- d. Record and maintain a record of the elevation (in relation to North American Vertical datum) to which all new or substantially improved structures have been floodproofed.
- e. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

B. Flood Plain Development Permit

- 1. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
- 2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
 - a. Description of the work to be covered by the permit for which application is to be made.
 - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - c. Indication of the use or occupancy for which the proposed work is intended.
 - d. Elevation of the 100-year flood.
 - e. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
 - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - g. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
- 3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Board of Adjustment.
- 4. Construction and Use to be as Provided in Application and Plans - Flood Plain Development

Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

C. Variance

1. The City Board of Appeals may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
 - a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
 - b. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
2. Factors Upon Which the Decision of the Board of Appeals Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - b. The danger that materials may be swept on to other land or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

- e. The importance of the services provided by the proposed facility to the City.
 - f. The requirements of the facility for a flood plain location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
 - m. Such other factors which are relevant to the purpose of this Ordinance.
3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- a. Modification of waste disposal and water supply facilities.
 - b. Limitation of periods of use and operation.
 - c. Imposition of operational controls, sureties, and deed restrictions.
 - d. Requirements for construction of channel modifications, dikes, levees. and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
 - e. Floodproofing measures.

SECTION VI - Nonconforming Uses

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
- 1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

SECTION VII - Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the city of Kanawha from taking such other lawful action as is necessary to prevent or remedy violation.

SECTION VIII - Amendments

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

SECTION IX - Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

APPURTENANT STRUCTURE – A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the primary structure.

BASE FLOOD ELEVATION - The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure".

EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by the community.

EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FACTORY-BUILT HOME - Any structure, designed for residential use:, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

FACTORY-BUILT HOME PARK - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

FLOOD ELEVATION - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY – An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD PLAIN - Any land area susceptible to being inundated by water as a result of a flood.

FLOOD PLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

FLOODWAY - The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

FLOODWAY FRINGE - Those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

HISTORIC STRUCTURE - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section IVD1 of this Ordinance and
- b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- d. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of flood plain management regulations adopted by the community.

ONE HUNDRED (100) YEAR FLOOD - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES - Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;
- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

SPECIAL FLOOD HAZARD AREA - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

VARIANCE - A grant of relief by a community from the terms of the flood plain management regulations.

VIOLATION - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.