

# City of Fruitland Code of Ordinances

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City of Fruitland  
and  
Bi-State Regional Commission





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# TITLE 1

## GENERAL PROVISIONS

Chapter 1	General Provisions
Chapter 2	Right of Entry
Chapter 3	Penalty
Chapter 4	Procedure for Hearings by the City Council



## CHAPTER 1

### GENERAL PROVISIONS

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

**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. "Chief of Police" means the Muscatine Police Department's Chief, Assistant Chief, Captain, or Shift Lieutenant.
3. "City" means the City of Fruitland, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.
4. "Clerk" means City Clerk, Treasurer, and/or Deputy City Clerk.
5. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and

including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded.

6. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state.
7. "County" means the County of Muscatine, Iowa.
8. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise. (Model Code Basis Amended in 2010)
9. "Fiscal Year" means July 1 to June 30.
10. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder.
11. "May" confers a power.
12. "Month" means a calendar month.
13. "Must" states a requirement.
14. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn."
15. "Or" may be read "and" and "and" may be read "or" if the sense requires it.
16. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution.

17. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.
18. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them.
19. "Personal property" includes money, goods, chattels, things in action and evidences of debt.
20. "Preceding" and "following" mean next before and next after, respectively.
21. "Property" includes real and personal property.
22. "Real property" includes any interest in land.
23. "Shall" imposes a duty.
24. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
25. "State" means the State of Iowa.
26. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
27. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others.
28. "Title of Office" Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City.
29. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail.

30. "Year" means a calendar year.
31. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
32. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

**1-1-2 Grammatical Interpretation.** The following grammatical rules shall apply in the Ordinances of the City:

1. Gender. Any gender includes the other gender.
2. Singular and Plural. The singular number includes the plural and the plural includes the singular.
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa.
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

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



- 1-1-4 Construction.** The provisions of this Code 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 Fruitland 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. (Model Code Basis Amended in 2010)
- 1-1-8 Amendments to City Code, Effect of New Ordinances, Amendatory Language.**
1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the number/lettering 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 Fruitland, 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 Fruitland, 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.

## 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.



## 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).

Code of Iowa, Sec. 903.1(1)(a)  
(Amended in 2008)  
(Amended in 2009)  
(Amended in 2010)

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

2. Violations, Penalties, and Alternative Relief.

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

Schedule of Civil Penalties

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

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

(Amended during 2010)

- 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.
  - (1) Civil Citations
  - (2) 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.

- (3) 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.
  - (4) 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.
  - (5) The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
    - (6) The name and address of the defendant.
    - (7) The name or description of the infraction attested to by the officer issuing the citation.
    - (8) The location and time of the infraction.
    - (9) The amount of civil penalty to be assessed or the alternative relief sought, or both.
    - (10) The manner, location, and time in which the penalty may be paid.
    - (11) The time and place of court appearance.
    - (12) The penalty for failure to appear in court.
    - (13) The legal description of the affected property, if applicable.
3. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or

both. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

4. 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 \$100.00 or by imprisonment in the county jail for a term not to exceed 30 days.

**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.



## CHAPTER 4

### PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

- 1-4-1 Purpose and Intent.
- 1-4-2 General.
- 1-4-3 Form of Notice of Hearing.
- 1-4-4 Subpoenas.
- 1-4-5 Conduct 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 Fruitland 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 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
  - 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 2 POLICY AND ADMINISTRATION

Chapter 1	City Charter
Chapter 2	Appointment and Qualifications of Municipal Officers
Chapter 3	Powers and Duties of Municipal Officers
Chapter 4	Salaries of Municipal Officers
Chapter 5	City Finance
Chapter 6	Posting
Chapter 7	Board of Adjustment
Chapter 8	Park and Recreation Board





## CHAPTER 1 CITY CHARTER

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

**2-1-1 Charter.** This chapter may be cited as the Charter of the City of Fruitland, Iowa as existing on August 24, 1972

**2-1-2 Form of Government.** The form of government of the City of Fruitland, 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 Fruitland, Iowa.

**2-1-4 Number and Term of City Council.** The City Council consists of five City Council members elected at large and elected for terms of four (4) years on a staggered basis; three (3) and two (2) elected in alternate city elections.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

**2-1-5 Term of Mayor.** The Mayor is elected for a term of two (2) years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

## CHAPTER 2

### APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

- 2-2-1 Creation of Appointive Officers.
  - 2-2-2 Appointment of Officers.
  - 2-2-3 Terms of Appointive Officers.
  - 2-2-4 Vacancies in Offices.
  - 2-2-5 Bonds Required.
  - 2-2-6 Surety.
  - 2-2-7 Blanket Position Bond.
  - 2-2-8 Bonds Filed.
  - 2-2-9 Boards and Commissions.
- 
- 2-2-1 **Creation of Appointive Officers.** There are hereby created the following appointive officers: Attorney and Building Inspector.
  - 2-2-2 **Appointment of Officers.** The Mayor shall appoint a Mayor Pro Tempore. 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 Selections.** 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.

- a. Exception: Residency requirement does not apply to the City of Fruitland Park Board.
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).



## CHAPTER 3

### POWERS AND DUTIES OF MUNICIPAL OFFICERS

- 2-3-1 General Duties.
  - 2-3-2 Books and Records.
  - 2-3-3 Deposits of Municipal Funds.
  - 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.
  - 2-3-7 Powers and Duties of the City Attorney.
- 
- 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 Clerk, together with receipts indicating the sources of the funds.
  - 2-3-4 **Transfer of Records and Property To Successor.** Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

**2-3-5 Powers and Duties of the Mayor.** The duties of the Mayor shall be as follows:

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

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may 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)  
(Amended during 2008)

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 or Clerk 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.

**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.  

(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, with the exception of Park Board 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 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, 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. The Clerk shall deposit the same at least once each week.

(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 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.



## 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 \$20.00 per month, to be paid in quarterly installments.  
(Code of Iowa, Sec. 372.13(8))

**2-4-2 Mayor.** The Mayor shall receive an annual salary of \$100.00 per month to be paid in equal quarterly 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))



## CHAPTER 5 CITY FINANCE

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

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

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:
  - a. Expenditures for each program.
  - b. Income from sources other than property taxation.
  - c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the

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

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

(Amended in 2012) [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 Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the 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 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 Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The 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 and Authorizations to Expend.** No expenditure shall be authorized by any City officer or employee except as herein provided. No disbursement of funds shall be given over the amount of \$3,000 without the consent of council. Disbursements under \$3,000 must be approved by the Mayor except as designated below. The exception to this rule is for contractual obligations by the City. All receipts and invoices must be turned over to the Clerk for bookkeeping purposes.

1. Examples of items not needing approval: garbage payments to Muscatine, debt service payments, police protection, phone services, Internet service, electricity.
2. Examples of items needing approval: new vehicles, major repairs to equipment, road work over noted amount, upkeep to facilities over noted amount.
3. The Mayor has the authority to set monetary limits for each employee.
4. The Clerks have the authority to make fund disbursements up to five hundred dollars \$500 without the consent of the mayor.
5. The Maintenance team has the authority to purchase up to five hundred dollars \$500 without the consent of the Mayor.

**2-5-8 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 pre-numbered, 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 Clerk and Mayor.

(Code of Iowa, Sec. 384.20)

**2-5-9 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.

(Code of Iowa, Sec. 384.20)

**2-5-10 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.

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

## CHAPTER 6 POSTING

2-6-1 Purpose.

2-6-2 Listing, Length of Notice.

2-6-3 Removal Unlawful.

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

(Code of Iowa, Sec. 362.3(2))

**2-6-2 Listing, Length of Notice.** The three public places where public notice of Ordinances and other matters permitted to be posted are to be displayed are: Drake Park, Post Office, and City Hall. The Clerk is hereby directed to promptly post notices of elections, Ordinances, and amendments, and to leave them so posted for not less than ten days after the first date of posting, and the Clerk shall note the first date of such posting on the official copy of the Ordinance and in the official Ordinance book immediately following the Ordinance.

(Code of Iowa, Sec. 380.7)

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



## CHAPTER 7

### BOARD OF ADJUSTMENT

2-7-1 Purpose and Intent.

2-7-2 Board of Adjustment Created.

2-7-3 Variances.

2-7-4 Appeals.

2-7-5 Penalty.

2-7-6 Repealer.

2-7-7 Severability Clause.

**2-7-1 Purpose and Intent.** The purpose of this ordinance is to create a Board of Adjustment for the City of Fruitland, Iowa.

**2-7-2 Board of Adjustment Created.** The Fruitland Board of Adjustment is hereby established under applicable provisions of Chapter 414 of the Code of Iowa.

1. **Appointment, Terms, Removal.** The Board of Adjustment (hereinafter sometimes referred to as the "Board") shall consist of five members to be appointed by the City Council for a term of five years, excepting that when the Board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the City Council for the unexpired term of the member affected.

2. Powers and Duties. The Board of Adjustment is here-by vested with the following powers and duties:
  - a. To hear and pass on all applications for variances from the terms provided in any Fruitland ordinance relating to zoning of real property.
  - b. To enforce and apply all provisions of Title 2 Chapter 7 pertaining to special permits.
3. Meetings and Rules. Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the Office of the Board.

The concurring vote of three members of the Board shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in application of any ordinance of the City of Fruitland.

4. Finality of Decisions of the Board of Adjustment. All decisions and findings of the Board of Adjustment on applications for a variance, special exception, or special permit, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

**2-7-3 Variances.**

1. Purpose and Findings of Fact. The Board of Adjustment, after a public hearing, may determine and vary the regulations of Title 2 Chapter 7 or any other Fruitland ordinance related to zoning restrictions in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further finds that there exist practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of any Fruitland City ordinance.
2. Application for Variance. An application for a variance shall be filed in writing by any interested person with the Board Chairperson or Secretary. Said application shall contain such information as will adequately apprise the Board of Adjustment of the nature of the request.
3. Standards of Variance. The Board of Adjustment shall not vary the regulations of Title 2 Chapter 7 or any other Fruitland ordinance related to zoning restrictions, as authorized in this section, unless there is evidence presented to it in each specific case that:
  - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. Literal interpretation of the provisions of any Fruitland ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or other Fruitland ordinances.
  - c. Special conditions and circumstances do not result from the actions of the applicant;

- d. Granting the variance requested will not confer on the applicant any special privilege that is denied by Fruitland ordinances to other lands, structures, or buildings in the same district.
  - e. That the allowance of the variance will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - f. That granting the variance will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood;
  - g. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided; and
  - h. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets.
4. Further Requirements.
- a. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - b. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of Title 2 Chapter 7 or any other Fruitland ordinance, related to zoning restrictions, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - c. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in



conformity with any ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable as provided herein.

- 2-7-4 Appeals.** Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the Code of Iowa.
- 2-7-5 Penalty.** Anyone violating any of the provisions of this ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding one hundred dollars (\$100.00).
- 2-7-6 Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. However, no part of Title 2 Chapter 7 is repealed.
- 2-7-7 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.



## CHAPTER 8

### PARK AND RECREATION BOARD

- 2-8-1 Purpose and Intent.
- 2-8-2 Park and Recreation Board Created.
- 2-8-3 Penalties.

#### **2-8-1 Purpose and Intent.**

The purpose of this ordinance is to create a Park Board for the City of Fruitland, Iowa and prescribe that board's powers and duties.

#### **2-8-2 Park and Recreation Board Created.**

The Fruitland Park Board is hereby established by the City Council.

1. Park and Recreation Board Organization. The Park and Recreation Board (hereinafter sometimes referred to as the "Board") shall consist of seven members, who need not be citizens or residents of the City of Fruitland, and who shall be over the age of eighteen years. The Board shall elect one of its members as chair upon qualification and appointment.
2. Appointment, Terms, Removal, Vacancies.
  - a. Appointment and Terms. Each member of the Board shall be appointed by the Mayor, subject to approval by majority vote of the City Council and serve a term of four years. From 1988 thereafter, the terms of office of Board members shall alternate, with no more than four Board members' terms being renewed every two years.
  - b. Removal. Failure to attend three consecutive meetings of the Board shall be grounds for removal of any Board member, unless good cause is shown for the absences. In the event that any Board member misses three consecutive meetings,

the chair of the Board may report the said three consecutive absences to the City Council, and the City Council, unless good cause can be shown for the absences, shall appoint a replacement for the Board member who has missed three consecutive Board meetings.

- c. Vacancies. A vacancy in the Board shall be filled by the Mayor, whose nominee shall be approved by majority vote of the City Council, and the new member of the Board shall hold office until the term of the Board member whom is replaced expires, and until a successor has been duly appointed.
3. Powers and Duties. The Park and Recreation Board is here-by vested with the following powers and duties:
    - a. To meeting and elect from its members a chair, a secretary and such other officers as it deems necessary;
    - b. To advise the City Council on the facilities needed to provide open space such as parks and playgrounds, and community facilities for other forms of recreation;
    - c. To plan and oversee city programs and to encourage other programs for the leisure time of the city's residents of all ages;
    - d. To have control over the properties and to employ and supervise the personnel devoted to parks and recreation, subject to such limitations and restrictions as the City Council may deem necessary;
    - e. To have control over the expenditures of all funds allocated for park and recreational purposes by the City Council, subject to the limitations of expenditures set forth in the annual budget provided by the City Council for park and recreational operations;

- f. To have control of the expenditures of all funds received by gift or otherwise, including all rentals collected from leases entered into by the Board;
  - g. To lease to charitable, fraternal, patriotic and family organizations, subject to reasonable rules and conditions, a particular park, playground or other recreational facility for a period not exceeding three days, for the purpose of permitting any such organization to conduct celebrations, anniversaries, and other like entertainments;
  - h. To make rules and regulations for the use of parks and other recreational facilities for the conduct of recreation programs, subject to the approval for such rules and regulations by the City Council, and to post and otherwise publicize such rules and regulations in a manner which will provide the public with adequate notices;
  - i. To make written reports to the City Council of its activities from time to time as it deems advisable or as the City Council may request; and
  - j. To make monthly reports of revenues and expenditures and to provide a copy thereof for the City Clerk's report to the City Council.
4. Meetings and Rules. Park and Recreation Board shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence, the acting Chairperson, may facilitate the meetings. All meetings shall be open to the public.

**2-8-3 Penalties.** Violation of a Board rule or regulation which has been approved by the City Council or violation of city, state or federal law on the premises of a city park, may be cause of denial of use of a facility or of participation in a program for reasonable period. The violation of any Board rule or regulation shall constitute a simple misdemeanor on the part of the violator punishable upon conviction by imprisonment not exceeding thirty (30) days or by a fine not exceeding one hundred dollars (\$100.00).

(Amended October 27, 2020)

## TITLE 3 COMMUNITY PROTECTION

Chapter 1	Offenses
Chapter 2	Nuisances
Chapter 3	Traffic Code
Chapter 4	Railroad Regulation
Chapter 5	Fire Protection
Chapter 6	Curfew for Minors
Chapter 7	Regulating Peddlers, Solicitors and Transient Merchants
Chapter 8	Alcoholic Beverages
Chapter 9	Junk and Abandoned Vehicles
Chapter 10	Drug Paraphernalia
Chapter 11	Fireworks Ordinance





## CHAPTER 1 OFFENSES

3-1-1 Violations of Chapter.

3-1-2 Public Peace.

3-1-3 Public Morals.

3-1-4 Streets.

3-1-5 Public Safety and Health.

3-1-6 Public Property.

**3-1-1 Violations of Chapter.** Commission of any of the acts named in the following sections by any person shall constitute a violation of this chapter.

**3-1-2 Public Peace.** It shall be unlawful for any person to do any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Act in a violent manner in a group of three or more assembled together, with intent that they or any of them assembled will commit a public offense.

9. Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.

**3-1-3 Public Morals.** Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another or to urinate or defecate in public or in view of the public.

**3-1-4 Streets.**

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any

highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

3. 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 within 48 hours of the accumulation of snow or ice. 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. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

### **3-1-5 Public Safety and Health.**

1. Expecting. 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. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife, unless licensed by the Iowa Department of Public Safety or having in possession a valid permit from the County Sheriff.
4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.
5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

## 6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

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

7. Possession of Fireworks.
  - a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.
  - b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.
8. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.
- (Code of Iowa, Sec. 718.2)
10. Harassment of City Employees.
- a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.
  - b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of the employee's family during the course of, or as a result of, the performance of any official duty by said City employee.
11. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.
- (Code of Iowa, Sec. 364.12(2))
12. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.
- (Code of Iowa, Sec. 364.1)
13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Chief of Police or police for such purposes.
- (Code of Iowa, Sec. 364.12)

14. Littering Prohibited.

- a. As used in this Code, "discard" means to place, cause to be placed, throw, deposit or drop, and "litter" means any garbage, rubbish, trash, refuse, waste material and yard waste.
- b. No person shall discard any litter within the City of Fruitland, except as provided and approved by the City of Fruitland, 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.

**3-1-6 Public Property.**

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully



defacing, cutting, breaking or injuring, except by the authority of the Mayor.

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

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

(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)



## CHAPTER 2 NUISANCES

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- 3-2-2 Nuisances Prohibited.
- 3-2-3 Other Conditions Regulated.
- 3-2-4 Notice to Abate Nuisance or Condition.
- 3-2-5 Contents of Notice to Abate.
- 3-2-6 Method of Service.
- 3-2-7 Request for Hearing and Appeal.
- 3-2-8 Abatement in Emergency.
- 3-2-9 Abatement by City.
- 3-2-10 Collection of Cost of Abatement.
- 3-2-11 Installment Payment of Cost of Abatement.
- 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 inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, unless it be in a building of fire resistant construction.

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

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

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

- l. Weeds. Any condition relating to weeds which is described as a nuisance in the Fruitland 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. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice to others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained with written permission from the Muscatine County Public Health Department and junk or salvage materials property stored in accordance with the Fruitland Municipal Code;
- r. Diseased or damaged trees or shrubs. Any dead, diseased or damaged trees or shrubs, which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration



that any part of such tree may fall and damage property or cause injury to persons.

- s. Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into and through the same; any storm water detention basin not maintained in an appropriate manner so as to allow its proper function.
- t. Stagnant water standing on any property, any property, container or material kept in such condition that water can accumulate and stagnate.
- u. Conditions which are conducive to the harborage or breeding of vermin.
- v. Infestations of vermin such as rats, mice, skunks, snakes, starlings, pigeons, bees, wasps, cockroaches or flies.
- w. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields, which have failed or do not function properly or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use unless they are empty and cleaned with clean fill; an evolved cesspools or septic tank which does not comply with the Muscatine County Department of Health regulation.
- x. Unoccupied buildings or unoccupied portions of buildings which are unsecured.
- y. Dangerous buildings or structures.
- z. Abandoned buildings.
- aa. Any hazardous thing or condition on property which may contribute to injury of any person present on the property;

hazards include, but are not limited to, open holes, open wells, open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.

- bb. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Fruitland Municipal Code of Ordinances.
- cc. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Fruitland Municipal Code of Ordinances.
- dd. Any accumulations of ice, water and snow on public sidewalks, or the failure to remove said accumulations within 48 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Fruitland Municipal Code of Ordinances.
- ee. The parking of motor vehicles on private property without the consent of the property owner or responsible party.
- ff. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.
- gg. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.

- hh. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 50 feet from the source of the amplified sound.
- ii. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.
- jj. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 10:00 p.m. and 6:00 a.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.
- kk. No person shall obstruct, deface, destroy or injure any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.
- ll. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.
- mm. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of 8 inches or more, nor shall any person allow their grass to grow unattended with a consistent height above 8 inches.
- nn. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place that prejudices others.
- oo. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown,

left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied.

- pp. The storage of any appliances, scrap metal, indoor furniture, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects visible from the public right-of-way or adjoining property.
- qq. Pools and ponds containing stagnant water.
- rr. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding 72 hours.
- ss. Rusty, deteriorated, dilapidated or unusable play equipment visible from any adjoining property.
- tt. Dilapidated dwelling units exhibiting peeling paint, untreated wood, broken gutters, broken windows, dry rot, missing banisters, railings and spindles, broken doors and the like creating an eyesore and offending members of the public.

- 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.  
(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 certified mail 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 City.** If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the 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 may certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes. The City may also assess a fee for assessing the amount to the County Treasurer

(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 \$500, 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)



## CHAPTER 3 TRAFFIC CODE

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- 3-3-70 Local Parking Fines.
- 3-3-71 Failure to Pay Parking Citations.

**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)

**Enforcement and Obedience to Traffic Regulations**

**3-3-4 Authority of Police and Fire Department Officials.** Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by 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)

**3-3-5 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:

321.98 Operation without registration.

321.180 Violations of instruction permit limitations.

321.193 Violation of conditions of restricted license.

321.194 Violation of conditions of minor's school license.

321.216 Unlawful use of license.

321.218 Driving without a valid license (as to simple misdemeanor offenses only).

321.219 Permitting unauthorized minor to drive.

321.220 Permitting unauthorized person to drive.

321.229 Failure to comply with lawful order of peace officer.

- 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
- 321.232 Radar jamming devices.
- 321.234 Failure to observe seating requirements.
- 321.236 (Parking) Violation of local ordinance (not a state offense).
- 321.256 Failure to obey traffic control device.
- 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
- 321.260 Unlawful possession of, or interference with traffic control device.
- 321.264 Striking unattended vehicle.
- 321.265 Striking fixtures upon a highway.
- 321.275 Motorcycle and motorized bicycles violations.
- 321.277 Reckless driving.
- 321.278 Drag racing prohibited.
- 321.285 Speed restrictions.
- 321.286 Truck speed limits (highway).
- 321.287 Bus speed limits (highway).
- 321.288 Failure to maintain control.
- 321.294 Failure to maintain minimum speed when directed by officer.
- 321.295 Excessive speed on bridge.
- 321.297 Driving on wrong side of two-way highway.
- 321.298 Failure to yield half of roadway upon meeting vehicle.
- 321.299 Passing on wrong side.

- 321.303 Unsafe passing.
- 321.304 Unlawful passing.
- 321.305 Violating one-way traffic designation.
- 321.306 Improper use of lanes.
- 321.307 Following too closely.
- 321.308 Following too closely (trucks and towing vehicles).
- 321.309 Failure to use approved drawbar.
- 321.310 Unlawful towing of four-wheeled trailer.
- 321.311 Turning from improper lane.
- 321.312 Making U-turn on curve or hill.
- 321.313 Unsafe starting of a stopped vehicle.
- 321.314 Unsafe turn or failure to give signal.
- 321.315 Failure to give continuous turn signal.
- 321.316 Failure to signal stop or rapid deceleration.
- 321.317 Signal light requirements; see equipment violation.
- 321.318 Incorrect hand signal.
- 321.319 Failure to yield to vehicle on right.
- 321.320 Failure to yield upon left turn.
- 321.321 Failure to yield upon entering through highway.
- 321.322 Failure to obey stop or yield sign.
- 321.323 Unsafe backing on highway.
- 321.324 Failure to yield to emergency vehicle.
- 321.325 Pedestrian disobeying traffic control signal.

- 321.326 Pedestrian walking on wrong side of highway.
- 321.327 Pedestrian right-of-way.
- 321.328 Pedestrian failing to use crosswalk.
- 321.329 Vehicle failing to yield to pedestrian.
- 321.331 Soliciting ride from within roadway.
- 321.332 Unlawful use of white cane.
- 321.333 Failure to yield to blind person.
- 321.340 Driving in or through safety zone.
- 321.341 Failure to properly stop at railroad crossing.
- 321.342 Failure to obey stop sign at railroad crossing.
- 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
- 321.344 Unlawful movement of construction equipment across railroad track.
- 321.353 Unsafe entry into sidewalk or roadway.
- 321.354 Stopping on traveled part of highway.
- 321.358 Stopping, standing, or parking where prohibited.
- 321.360 Prohibited parking in front of certain buildings.
- 321.361 Parking too far from curb/angular parking.
- 321.362 Parking without stopping engine and setting brake.
- 321.363 Driving with obstructed view or control.
- 321.365 Coasting upon downgrade.
- 321.366 Improper use of median, curb, or controlled access facility.



- 321.367 Failure to maintain distance fire-fighting vehicle.
- 321.368 Crossing unprotected fire hose.
- 321.369 Putting debris on highway/roadway.
- 321.370 Removing injurious material.
- 321.371 Clearing up wrecks.
- 321.372 School bus provisions.
- 321.377 Excessive speed of school bus.
- 321.381 Driving or towing unsafe vehicle.
- 321.382 Operating underpowered vehicle.
- 321.383 Failure to display reflective device on slow-moving vehicles.
- 321.384 Failure to use headlamps when required.
- 321.385 Insufficient number of headlamps.
- 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
- 321.387 Improper rear lamp.
- 321.388 Improper registration plate lamp.
- 321.389 Improper rear reflector.
- 321.390 Reflector requirements.
- 321.391 Improper type of reflector.
- 321.392 Improper clearance lighting on truck or trailer.
- 321.393 Lighting device color and mounting.
- 321.394 No lamp or flag on rear-projecting load.
- 321.395 Parking on certain roadways without parking lights.

- 321.397 Improper light on bicycle.
- 321.398 Improper light on other vehicle.
- 321.402 Improper use of spotlight.
- 321.403 Improper use of auxiliary driving lights.
- 321.404 Improper brake light.
- 321.408 Back-up lamps.
- 321.409 Improperly adjusted headlamps.
- 321.415 Failure to dim.
- 321.419 Improper headlighting when night driving.
- 321.420 Excessive number of driving lights.
- 321.422 Lights of improper color-front or rear.
- 321.423 Special light/signal provision.
- 321.430 Defective braking equipment.
- 321.431 Brake performance ability.
- 321.432 Defective audible warning device.
- 321.433 Unauthorized use of emergency audible warning devices on motor vehicle.
- 321.434 Use of siren or whistle on bicycle.
- 321.436 Defective or unauthorized muffler system.
- 321.437 Mirrors.
- 321.438 Windshields.
- 321.439 Defective windshield wiper.
- 321.440 Defective tires.

- 321.441 Unauthorized use of metal tire or track.
- 321.442 Unauthorized use of metal projection on wheels.
- 321.444 Failure to use safety glass.
- 321.445 Failure to maintain or use safety belts.
- 321.446 Failure to secure child.
- 321.449 Special regulations.
- 321.450 Hazardous materials.
- 321.454 Width and length violations.
- 321.455 Excessive side projection of load – passenger vehicle.
- 321.456 Excessive height.
- 321.457 Excessive length.
- 321.458 Excessive projection from front of vehicle.
- 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 321.460 Spilling loads on highways.
- 321.461 Excessive tow-bar length.
- 321.462 Failure to use required towing equipment.
- 321.463 Maximum gross weight.
- 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

## **Traffic Control Devices**

- 3-3-6 Authority to Install Traffic-Control Devices.** The Chief of Police or any other authorized municipal officer 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.
- (Code of Iowa, Sec. 321.255 and 321.256)
- 3-3-7 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.
- 3-3-8 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**

**3-3-9 Changing State Speed Limits in Certain Zones.** It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Increased speed limit
2. Lower speed limit

(Code of Iowa, Sec. 321.290)

### **Turning Movements**

**3-3-10 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)

- 3-3-11 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.
- 3-3-12 Obedience to No-Turn Signs.** Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.
- 3-3-13 "U" Turns.** It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

### **One-Way Streets and Alleys**

- 3-3-14 Authority to Designate One-Way Streets and Alleys.** Whenever any traffic Code of this City designates any one-way street or alley the 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.
- 3-3-15 One-Way Streets and Alleys.** Upon the following streets and alleys vehicular traffic shall move only in the indicated direction.

**3-3-16 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.

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

### **Special Stops Required**

- 3-3-17 Through Highways.** Streets or portions of streets described below are declared to be through highways:  
(Code of Iowa, Sec. 321.345 and 321.350)
- 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 curbing 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 any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

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

(Code of Iowa, Sec. 321.236)

**3-3-33 All-Night Parking Prohibited.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

**3-3-34 Truck Parking Limited.** Trucks licensed for five tons or more shall not be parked at the following locations on the streets named:

### **Miscellaneous Driving Rules**

- 3-3-35 Vehicles Not to be Driven on Sidewalks.** The driver of a vehicle shall not drive upon or within any sidewalk area.
- 3-3-36 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.
- 3-3-37 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.
- 3-3-38 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.
- 3-3-39 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.

**3-3-40 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.

**3-3-41 Load Restrictions Upon Vehicles Using Certain Streets.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets within the City and none other:

**3-3-42 Truck Routes.**

1. Every motor vehicle licensed for ten (10) tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall not travel over or upon the following streets within the City and none other:

North Street, Sand Run Road, and Muscatine Street

2. Any motor vehicle licensed for ten (10) tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.
3. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

**3-3-43 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') feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

### **3-3-44 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**

**3-3-45 Definitions.** For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean either of the following:
  - a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
  - b. A device having two or more wheels with fully operable peddles and an electric motor less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved



level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(Code of Iowa, Sec. 321.1)  
(Amended in 2008)

**3-3-46 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.

**3-3-47 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.

**3-3-48 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.

- 3-3-49 Speed.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.
- 3-3-50 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.
- 3-3-51 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.
- 3-3-52 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.
- 3-3-53 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.

- 3-3-54 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**

### **3-3-55 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.

### **3-3-56 Permitted Areas of Operation.** Snowmobiles will be allowed to operate in the City as follows:

The route established herein shall be the only permitted snowmobile route and the snowmobiles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

### **3-3-57 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.

**3-3-58 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.

**3-3-59 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.

**3-3-60 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.

**3-3-61 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**

**3-3-62 Definitions.** For use in this Chapter the following terms are defined:

1. "All-terrain vehicle" (ATV) means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road recreational use. "All-terrain vehicle" includes off-road utility vehicles as defined in Section 321I.1, but does not include farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.
2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321, but which contains design features that enable operation over natural terrain.
3. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a steering wheel for control.

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

**3-3-63 Operation of All-Terrain Vehicles.** All-terrain vehicles (ATV) are prohibited for use upon the streets of the City of Fruitland.

- 3-3-64 Operation of Off-Road Motorcycles.** Off-road motorcycles (dirt bikes) are prohibited for use upon the streets of the City of Fruitland.
- 3-3-65 Operation of Off-Road Utility Vehicles.** Off-road vehicles (UTV) may be operated upon the streets of the City by persons possessing a valid driver's license provided that a special permit is obtained from the City Hall. The application for a permit shall set forth that the applicant meets the requirements of this section. Permits shall be granted for one (1) year valid from January 1 through December 31. Permits may be purchased at any time during the year but will be valid only through December 31. The City Council may impose restrictions and conditions in addition to those set forth in this section. Before being operated on the streets of the City of Fruitland the permit holder must have attached a valid permit sticker issued by City Hall to the rear left side fender of the off-road vehicle. Operators must comply with all applicable provisions of the Code of Ordinances of the City of Fruitland and Code of Iowa related to motor vehicle traffic and parking regulations.

The owner of the UTV shall be required to provide proof of ownership, including but not limited to bill of sale, Iowa Department of Natural Resources registration or registration from the appropriate out-of-state authority, and proof of liability insurance as required by Iowa Code 321.20B and 321A.21.

The operation of off-road vehicles shall comply with the following specifications:

1. Compliance with State Code. All operation shall comply with Iowa Code Chapter 321.
2. Equipment. Off-road vehicles operated upon City streets shall be equipped with a minimum of the following safety features:  
  
Operational brakes, headlights, taillights, brake lights, a slow-moving vehicle sign and a properly functioning muffling device that complies with the standards and procedures required by Iowa Code 321.12.

3. Time of Operation. The off-road vehicle may be operated any time during the day or night but subject to the requirements of this ordinance.
4. Speed. No off-road vehicle shall be operated on any City street at a speed in excess of the posted speed limits.
5. Prohibited Operation. Shall not be operated on sidewalks, railroad right-of-way, on private property belonging to others, City parks, or other City land. For purposes of clarification, it is permissible to park the UTV in the public parking areas of City parks or other City land, so long as these units are operated in the same fashion as a motor vehicle would be operated and do not cause damage to the parking areas.
6. Penalty. A person convicted of a violation of this section is guilty of a municipal infraction punishable as a violation under Iowa Code and per Fruitland Code of Ordinances Title 1 Chapter 3.

(Amended 12/23/20)

### **3-3-66 Reserved**

### **3-3-67 Golf Carts**

1. Definitions. For use in this ordinance "golf cart" is defined as a motorized 4-wheeled recreational vehicle designed to transport person(s) on a golf course.
2. Operation of Golf Carts. Golf carts may be operated on City streets by persons possessing a valid driver's license provided that a special permit is obtained from the City Hall. The application for a permit shall set forth that the applicant meets the requirements of this section. Permits will be granted for one (1) year valid from January 1 through December 31. Permits may be purchased at any time during the year but will be valid only through December 31. The City Council may impose restrictions and conditions in addition to those set forth in this section. The golf cart shall be

equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. Before being operated on the streets of the City of Fruitland the permit holder must have attached a valid permit sticker issued by City Hall to the rear left side fender of the golf cart. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa. The operation of golf carts shall comply with the following restrictions:

3. Prohibited Operation. Shall not be operated on sidewalks, railroad right-of-way, parks, or other City land.
4. Time of Operation. Shall only be operated between sunrise and sunset.

(Code of Iowa 321.13)

5. Compliance with State Code. All operation shall comply with Iowa Code Chapter 321.
6. Equipment. Golf carts operated upon City streets shall be equipped with a minimum of the following safety features:
  - a. A slow moving vehicle sign.
  - b. A bicycle safety flag, the top of which shall be a minimum of five (5) feet above ground level.
  - c. Adequate brakes.
7. Speed. No golf cart shall be operated on any City street at a speed in excess of the posted speed limits.



**Penalties and Procedure**

**3-3-68 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.

**3-3-69 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.

**3-3-70 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:

	<u>First Offense</u>	<u>Repeat Offenses</u>
1. Overtime parking	\$10	\$25 (after 20 citations), \$5 increase after 30 days
2. Parking violations generally	\$10	\$25 (after 20 citations)
3. Snow route parking	\$35	\$35, \$5 increase after 30 days
4. Junk or obsolete violations	\$20	\$20, \$5 increase after 30 days
5. Persons with disabilities parking	\$200	\$200

(Code of Iowa, Sec. 321L.4(2))  
(City of Muscatine City Code, Appendix A)

**3-3-71 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.

## CHAPTER 4 RAILROAD REGULATION

- 3-4-1 Definitions.
- 3-4-2 Warning Signals.
- 3-4-3 Street Crossing Signs and Devices.
- 3-4-4 Street Crossing Obstructions.
- 3-4-5 Maintenance of Crossings.
- 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 non-mechanical 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.



## **CHAPTER 5 FIRE PROTECTION**

Fire protection in the City of Fruitland is provided by the Fruitland Volunteer Fire Department per a 28E agreement established in 1979. This agreement is automatically renewable for two-year periods unless terminated as set forth in the Fire Protection Charter Agreement.





## CHAPTER 6

### CURFEW FOR MINORS

3-6-1 Preamble.

3-6-2 Findings and Purpose.

3-6-3 Definitions.

3-6-4 Offenses.

3-6-5 Defenses.

3-6-6 Enforcement.

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

(Code of Iowa, Sec. 364.1)

**3-6-2 Findings and Purpose.** The City of Fruitland 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. It shall be unlawful for any minor under the age of eighteen (18) years to be or remain, in or upon any of the alleys, streets, or other

public places in the City between the hours of twelve o'clock (12:00) a.m. and five o'clock (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 Fruitland, 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 Fruitland, 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
  - i. Married or had been married
2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**3-6-6 Enforcement.**

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an

arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City of Fruitland.



## CHAPTER 7

### REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

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

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.
2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

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

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

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

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

**3-7-3 Permits.** Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than sixty days.

(Code of Iowa, Sec. 9C.2)

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

1. Name, social security number, and copy of government issued photo identification.



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

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

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

**3-7-7 Obstruction of Pedestrian or Vehicular Traffic.** No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

- 3-7-8 Display of Permit.** Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.
- 3-7-9 Permit Not Transferable.** Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.
- 3-7-10 Revocation of Permit.** The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

## CHAPTER 8 ALCOHOLIC BEVERAGES

- 3-8-1 Purpose.
- 3-8-2 Required Obedience to Provisions of this Chapter and State Law.
- 3-8-3 Action by Council.
- 3-8-4 Transfers.

**3-8-1 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)

**3-8-2 Required Obedience to Provisions of this Chapter and State Law.** The following sections of the Iowa Code are hereby adopted by reference:

123.2 and 123.3      General Prohibition and Definitions

123.18      Favors From Licensee or Permittee

123.22      State Monopoly

123.28      Open Alcoholic Beverage Containers

123.30      Liquor Control Licenses - Classes

123.31      Application Contents

123.33      Records

123.34      Expiration - License or Permit

123.35      Simplified Renewal Procedure

123.36      Liquor Fees - Sunday Sales

123.38      Nature of Permit or License - Surrender - Transfer

- 123.39 Suspension or Revocation of License or Permit - Civil Penalty
- 123.40 Effect of Revocation
- 123.44 Gifts of Liquors Prohibited
- 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration
- 123.47 Persons Under Legal Age - Penalty
- 123.49 Miscellaneous Prohibitions
- 123.50 Criminal and Civil Penalties
- 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
- 123.52 Prohibited Sale
- 123.90 Penalties Generally
- 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
- 123.122 through 123.145 Beer Provisions (Division II)
- 123.150 Sunday Sales Before New Year's Day
- 123.171 through 123.182 Wine Provisions (Division V)
- 321.284 Open Containers in Motor Vehicles - Drivers
- 321.284A Open Containers in Motor Vehicles - Passengers

**3-8-3 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))

**3-8-4 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)



## CHAPTER 9 JUNK AND ABANDONED VEHICLES

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

**3-9-1 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)

**3-9-2 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)

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.

### **3-9-3 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 3-9-2 (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, 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.

#### **3-9-4 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 shall notify, within twenty 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 3-9-6.
  - 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 3-9-5.

(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))

### **3-9-5 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 3-9-4 (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 3-9-5(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.

### **3-9-6 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 Title 1 Chapter 4 1-4-1 at seq.

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

### **3-9-7 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))

**3-9-8 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 Fruitland, 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.

**3-9-9 Notice to Abate.**

1. Whenever the Mayor or other authorized municipal officer finds a junk vehicle placed or stored on private property within the City in violation of Section 3-9-8, the Mayor, City Clerk, or Chief of Police shall notify, by certified mail, 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 or other deadline established by the Mayor or other authorized municipal officer.

**3-9-10 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))

**3-9-11 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 may certify the costs to the County Treasurer and the costs may then be collected with, and in the same manner, as general property taxes.

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

**3-9-12 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.

**3-9-13 Interference with Enforcement.** No person shall interfere in any way with the enforcement provision of this chapter.





## CHAPTER 10

### DRUG PARAPHERNALIA

3-10-1 Definitions.

3-10-2 Exemption.

3-10-3 Prohibition.

**3-10-1 Definitions.** As used in this Section, "drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

1. Manufacture a controlled substance.
2. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
3. Test the strength, effectiveness, or purity of a controlled substance.
4. Enhance the effect of a controlled substance.

(Code of Iowa, Sec. 124.414)

**3-10-2 Exemption.** "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

(Code of Iowa. Sec. 124.414)

**3-10-3 Prohibition.** It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)



## CHAPTER 11

### FIREWORKS ORDINANCE

- 3-11-1 Definitions.
- 3-11-2 Violations.
- 3-11-3 Prohibitions.
- 3-11-4 Sale of Consumer Fireworks.
- 3-11-5 Restrictions on the Use of Consumer Fireworks.

**3-11-1 Definitions.** The following words, terms, and phrases, when used in this Article, shall have the meaning as set forth in this section, except where the context clearly indicates a different meaning:

1. "Consumer Fireworks" includes First-Class Consumer Fireworks and Second-Class Consumer Fireworks as those terms are defined in Section 100.19 and Chapter 727 of the Iowa Code. Consumer Fireworks do not include Novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1 or Display Fireworks enumerated in Chapter 4 of the American Pyrotechnics Association's Standard 87-1.
2. "Display Fireworks" include any explosive composition, or combination of explosive substances, or article prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. Display Fireworks does not include Novelties or Consumer Fireworks enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1.
3. "Fireworks" means Consumer Fireworks and Display Fireworks. Fireworks does not include Novelties as defined in American Pyrotechnics Association's Standard 87-1, Chapter 3, and that

comply with the labeling regulations promulgated by the United States Consumer Products Safety Commission.

### 3-11-2 Violations.

1. Any person who fails to perform an act required by the provisions of this Chapter, or who commits an act prohibited by the provisions of this Chapter, shall be guilty of a simple misdemeanor punishable by a fine or punishable as a municipal infraction civil penalty as set forth in this Code.
2. A person may be prosecuted under the public nuisance provisions set forth in this Code and/or any other remedy available at law, to address any failure to perform an act required by the provisions of this Chapter or any action prohibited by the provisions of this Code of Ordinances or Code of Iowa.
3. A person who sells Consumer Fireworks to a person who is less than eighteen (18) years of age commits a simple misdemeanor, punishable by a fine of not less than \$250.00.
4. A person who is less than eighteen (18) years of age who purchases Consumer Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.
5. A person who uses or explodes Consumer Fireworks in violation of this Article commits a simple misdemeanor, punishable by a fine of \$250.00.
6. A person who uses or explodes Display Fireworks while the use of such device is in violation of this Article commits a simple misdemeanor, punishable by a fine of not less than \$250.00.
7. A person who is less than eighteen (18) years of age who uses or explodes Consumer Fireworks or Display Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

**3-11-3 Prohibitions.**

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

**3-11-4 Sale of Consumer Fireworks.**

1. It shall be unlawful for a person to offer for sale, expose for sale, or sell Consumer Fireworks, unless the person is a retailer or community group as defined in Chapter 100, Iowa Code, and possesses and complies with all requirements of a Consumer Fireworks seller license issued by the State Fire Marshall.
2. Consumer Fireworks may only be sold during the dates and times as established by the Iowa Code.
3. Consumer Fireworks may only be sold in zoning districts within the City that permit retail sales. Fireworks may not be sold on public property or within a residential zoning district.

**3-11-5 Restrictions on the Use of Consumer Fireworks.**

1. No use or explosion of Consumer Fireworks is allowed in the City of Fruitland.
2. A person who violates this subsection commits a simple misdemeanor.



## TITLE 4 MENTAL AND PHYSICAL HEALTH

- Chapter 1      Animal Control
- Chapter 2      Keeping of Animals in Residential Districts





## CHAPTER 1 ANIMAL CONTROL

- 4-1-1 Definitions.
- 4-1-2 Immunization.
- 4-1-3 At-Large Prohibited.
- 4-1-4 Animal Nuisances.
- 4-1-5 Impounding.
- 4-1-6 Dangerous Animals.
- 4-1-7 Kennel Dogs.
- 4-1-8 Limit on Number of Dogs.
- 4-1-9 Prohibition of Animals in City Parks.
- 4-1-10 Rabies Suspects and Animal Bites.
- 4-1-11 Vicious Animals; Guard or Attack Dogs.
- 4-1-12 Seizure, Impoundment, and Disposition of Dangerous or Vicious Animals.
- 4-1-13 Penalties.
- 4-1-14 Exemption for Police Service Dogs (K9s).

**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 "animals" means dogs, cats, all domestic animals, and any other animal owned by a person.
3. The term "at large" shall mean any animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital

or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.

4. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.
5. A "dangerous animal" is:
  - a. Any animal which is not naturally tame or gentle, and
  - b. Which is of a wild nature or disposition, and
  - c. Which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and
  - d. Having known tendencies as a species to do so; or.
  - e. Has bitten or attacked a human being or other animals without provocation or justification;
  - f. Exhibits aggressive or dangerous behavior and is not adequately confined or restrained;
  - g. Is known or suspected to be an animal exposed to rabies and is not adequately confined and restrained; or
  - h. Requires confinement or restraint to protect the health, safety or welfare of the public.
  - i. 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
  - (10) Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
  - (11) Any cross breed of such animals which have similar characteristics of the animals specified above.
- j. Any animals declared to be dangerous by the City Council.
6. "Vicious animal" means any animal that:
- a. Has bitten or attacked human beings or other animals; or
  - b. Has previously been deemed dangerous, and subsequently bitten or attacked another animal; or
  - c. Has previously been seized or impounded for exhibiting dangerous behaviors; or
  - d. A dog that chases other animals, bicycles, pedestrians, or vehicles on streets, sidewalks or public places within the city.
  - e. Exceptions:
    - (1) Protecting self or others: an animal shall not be considered vicious if it has bitten or attacked if the animal was:

- (a) Protecting or defending itself, its young, or another animal;
  - (b) Responding to pain or injury; or
  - (c) Protecting or defending a human being within the immediate vicinity of the animal from physical attack or assault.
- (2) Instigation by others: an animal shall not be considered vicious if it has bitten or attacked if the injury or damage was sustained by one who:
- (a) At the time was committing a willful trespass or other tort on the premises occupied by the owner or custodian of the animal;
  - (b) Was tormenting, abusing, or assaulting the animal;
  - (c) In the past has been observed or reported to have tormented, abused, or assaulted the animal; or
  - (d) Was committing or attempting to commit a crime.

(Amended 10/13/20)

**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 serious annoyance or disturbance by excessive or habitual barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(Code of Iowa, Sec. 657.1)

**4-1-5 Impounding.**

1. Any dog found at large in violation of Sections 4-1-3 and 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.
2. Owners of dogs shall be notified within two (2) days that upon payment of actual costs, including transportation and other related costs, plus cost of food and care in a reasonable amount, the dog will be returned. If the impounded dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of as provided in Section 717B.4 Code of Iowa.
3. 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)

4. 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)

**4-1-6 Dangerous Animals.** Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.

1. 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.

**4-1-7 Kennel Dogs.** Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this ordinance.

**4-1-8 Limit on Number of Dogs.** No person shall possess, keep, or house more than three (3) dogs at any single residence or property in the City of Fruitland.

1. Exception: The litter of a dog residing within city limits for the first 12 weeks after the birth of the litter.

- 4-1-9 Prohibition of Animals in City Parks.** It shall be a violation to allow a dog, cat, or any household pet, owned or controlled by a person to be in any City park at any time, except on the occasion of permitted special events held at City parks. The City Council must be made aware of the request and approve without a motion being necessary.
- 4-1-10 Rabies Suspects and Animal Bites.** Any dog or cat which is suspected of having rabies, or which has bitten a person or other animal, shall be impounded or confined, either at the residence of the owner of said animal, or under the supervision of a licensed veterinarian, for observation. All fees for such impoundment and observation shall be the sole responsibility of the owner of such animal. Owners choosing to impound or confine animals at their residence shall complete a "Voluntary Animal Confinement Form" which shall be provided by the Animal Control Officer. At the completion of the fourteen (14) day confinement period, the owner shall present the confined animal along with Animal Confinement Form to a licensed veterinarian. The veterinarian shall then examine the animal and complete the appropriate section of the Voluntary Animal Confinement Form. The owner of the animal shall then return this form to the Animal Control Officer.
1. Any dog or cat impounded under the provisions of this section shall be placed in a suitable facility and quarantined for a period of not less than fourteen (14) days at the sole expense of the owner.
  2. Any such animal impounded under the provisions of this section shall be destroyed upon determination that such animal is infected with rabies.
  3. 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 the Animal Control Officer. It shall be the duty of physicians and veterinarians to report to the Animal Control Officer the existence of any animal known or suspected to be suffering from rabies.

**4-1-11 Vicious Animals; Guard or Attack Dogs.**

1. It shall be unlawful for any person to keep or harbor a fierce or vicious animal, except in an authorized zoo or zoological park.
2. If satisfied that an animal is accustomed to seizing and biting people or is vicious and has actually bitten one or more person or animals, the Chief of Police, or assigned designee, may, if he finds such animal at large, kill the same without previous notice to the owner.
3. Dogs maintained as guard dogs or placed in an enclosed area for the protection of person or property shall not be included under this section as long as they remain in this enclosed area and are completely confined in a kennel, yard, or other space when not being used as a guard dog.
4. The owner, or other person in control if not the owner, of all premises upon which attack and guard dogs are maintained shall post signs on, over, or next to all exterior doors stating that such dogs are on the premises. At least one (1) such sign shall be posted at each driveway or entrance way to said premises.

(Amended 10/13/20)

**4-1-12 Seizure, Impoundment, and Disposition of Dangerous or Vicious Animals.**

1. The Police Chief, or assigned designee, may destroy a dangerous or vicious animal at their discretion in the event that the animal:
  - a. Cannot be confined or captured and is:
  - b. Found at large and unattended upon public property, park property, public right-of-way; or,
  - c. Found at large on the property of someone other than its owner, thereby creating a hazard to persons or property.



- d. The City shall be under no duty to attempt the confinement or capture of a dangerous/vicious animal found at large nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. The Police Chief, or assigned designee, shall investigate any complaint of a person keeping, sheltering or harboring a dangerous or vicious animal on premises in the City in violation of this chapter. The Police Chief, or assigned designee, shall also investigate any complaint of a dangerous or vicious animal that demonstrates a propensity to attack without provocation. If investigation of the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous or vicious animal in the City, the Police Chief, or assigned designee, shall order the person named in the complaint to:
  - a. Safely remove such animal from the city; or
  - b. Permanently place the animal with an organization or group allowed to possess such dangerous or vicious animal; or
  - c. Destroy the animal
3. The order shall be contained in a notice to remove the dangerous/vicious animal, shall be in writing, and shall be served personally or by certified mail to the person keeping, sheltering, or harboring the dangerous/vicious animal.
4. The order to remove a dangerous/vicious animal shall be carried out within three (3) business days of receipts of the order; or the recipient of the order may appeal the order to the City Council. To appeal such order, written notice of appeal must be filed with the City Clerk within the three (3) day period following the receipt of the order to remove the dangerous/vicious animal. The appeal shall be delivered in person or by certified mail to the City Clerk. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.

- a. The hearing of the appeal shall be scheduled for the next regular Council meeting after receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the City Council may affirm or reverse the order of the Police Chief, or assigned designee. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.
  - b. If the City Council affirms the action of the Police Chief, or assigned designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous/vicious animal follow the actions of the original order. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal.
5. Such order and notice to remove the dangerous/vicious animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Police Chief, or assigned designee, shall cause the animal to be immediately seized and impounded; or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
6. If the original order of the Police Chief, or assigned designee, is not appealed or is not complied with within three (3) days of the order of the City Council after appeals has been served, the Police Chief, or assigned designee, is authorized to seize and impound such dangerous/vicious animal. An animal so seized shall be impounded for a period of seven (7) days. If, at the end of the impoundment period, the person against whom the decision and order of the Police Chief, or assigned designee, or City Council was issued has not petitioned the Muscatine County District Court for review of said order, the Police Chief, or assigned designee, shall

cause the animal to be disposed of by sale, permanently placing such animal with an organization or group allowed to possess dangerous/vicious animals, or destroy such animal in a humane manner. All impoundment fees shall be at the expense of the owner of the dangerous/vicious animal, which said fees shall be the actual cost of the feeding and care of the animal.

(Amended 10/13/20)

#### **4-1-13 Penalties.**

1. Any person or owner of property who violated the provisions of this Chapter shall be guilty of a municipal infraction and subject to a penalty as set out in Section 1-3-2 of this Code of Ordinances.
2. Any owner or person charged with a first or second violation of this Chapter may present such summons at City Hall in the City of Fruitland and pay such fine without appearance in court, and upon payment of the fine, shall be deemed to have pleaded guilty to the offense charged. Nothing herein contained shall be construed to prohibit any person charged with a violation of this Chapter from contesting such charge. The provision of this Subsection shall not be applicable upon the filing of a complaint and summons for the third or subsequent violation this Chapter.

(Amended 10/13/20)

- 4-1-14 Exemption for Police Service Dogs (K9s).** This Chapter shall not apply to police service dogs (K9s) used by a law enforcement agency that is acting in the performance of its duties.

(Amended 10/13/20)



## CHAPTER 2

### KEEPING OF ANIMALS IN RESIDENTIAL DISTRICTS

- 4-2-1 Purpose.
- 4-2-2 Definitions.
- 4-2-3 Regulations Applying to All Parcels.
- 4-2-4 Regulations Applying to Parcels Under Three (3) Acres in Size.
- 4-2-5 Regulations Applying to Parcels More Than Three (3) Acres But Less Than Twenty (20) Acres in Size.
- 4-2-6 Regulations Applying to Parcels More Than Twenty (20) Acres in Size.
- 4-2-7 Keeping of Hives of Colonies of Bees.
- 4-2-8 Penalty.
- 4-2-1 Purpose.** The purpose of this chapter is to permit and regulate the raising and keeping of any animals within a residential zoned district. This chapter applies whenever an animal other than those defined in Title 4 Chapter 1 of the City of Fruitland Code of Ordinances is kept within the residential district of the City of Fruitland, Iowa. Nothing in this chapter shall be construed as permitting a type or species of animal that is prohibited elsewhere in the City Code.
- 4-2-2 Definitions.**
1. Domestic Companion Animal. A domestic animal customarily kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food or fur, or monetary gain. Typically, this includes dogs, cats, birds and other small mammals and reptiles, but not fowl, herd animals, goats, horses, other farm type animals, or types of animals prohibited elsewhere in the City Code.
  2. Small Farm Type Animal. Small sized animals or fowl normally raised on a farm, or as part of commercial agricultural or animal

husbandry operation, or normally used for purposes related to agricultural production, including but not limited to, chickens, geese, ducks, turkeys, pigeons, rabbits, mink, and other animals or fowl of similar size and type, whose mature weight is less than 30 pounds. Young or miniature large animals are not included in this definition and are considered large animals. The category does not include domestic companion animals.

3. Medium Farm Type Animal. Medium sized animals or fowl normally raised on a farm, or as part of commercial agricultural or animal husbandry operation, or normally used for purposes related to agricultural production, including but not limited to, swine, sheep, goats, llamas, emu or similar medium sized animals whose mature weight is between 30 and 500 pounds. The category does not include domestic companion animals.
4. Large Farm Type Animal. Includes, but not limited to, horses, donkeys, burros, cattle, bison, camels, ostriches, and other animals or livestock of similar size and type, whose mature weight exceeds 500 pounds.

#### **4-2-3 Regulations Applying to All Parcels.**

1. Keeping of domestic companion animals of a type and in a manner that is in compliance with all relevant sections of City Code is permitted.
2. All pens, cages or any other structure related to the keeping of animals shall be maintained in a sanitary manner free from noxious odor, and conditions shall limit noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties. Furthermore, animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.
3. All animals shall be kept within fences, enclosures, or pens. Animals shall not be allowed to roam at-large under Fruitland

Code Section 4-1-3, or cause nuisances under Fruitland Code Section 4-1-4.

4. Any accessory structure shall be set back 60 feet from the nearest parcel line.
5. Kennels or any other forms of boarding animals for compensation are prohibited except as allowed under Fruitland Code Section 4-1-8.
6. Keeping of peacocks, turkey gobblers, and Guinea fowl shall not be permitted.

#### **4-2-4 Regulations Applying to Parcels Under Three (3) Acres in Size.**

1. Keeping of medium or large type farm animals is prohibited.
2. Keeping of small type farm animals is permitted as long as the animals are kept according to good animal husbandry practices, and in accordance with Section 3 of this regulation, or as stated in other sections of the City Code, and according to the following limitations:
  - a. Maximum of 6 chickens or ducks per parcel;
  - b. Maximum of 2 geese per parcel
  - c. Maximum of 6 rabbits per parcel
  - d. Maximum of 8 pigeons per parcel
  - e. Maximum of 2 turkeys per parcel; Gobblers are not permitted within the City of Fruitland
  - f. Maximum not to exceed a combination of 9 of the above listed species per parcel.

**4-2-5 Regulations Applying to Parcels More Than Three (3) Acres But Less Than Twenty (20) Acres in Size.**

1. Keeping of domestic companion animals of a type and in a manner that is in compliance with all relevant sections of City Code is permitted.
2. Maximum number of farm type of animals permitted:
  - a. Small farm type animals: Maximum of 6 small farm type animals per acre.
  - b. Medium farm type animals: Maximum of 2 medium farm type animals per acre.
  - c. Large farm type animals: Maximum of 1 large farm type animal per acre.
3. Any accessory structure related to the keeping of farm type animals shall comply with all of the following:
  - a. Any accessory structure associated with the keeping of small, medium, or large type farm animals, other than swine, shall be set back 60 feet from the nearest parcel line.
  - b. Animal shelter building(s) for the housing of livestock or small animals or fowl shall be permitted according to accepted animal husbandry practices.
4. Keeping of swine is prohibited.

**4-2-6 Regulations Applying to Parcels More Than Twenty (20) Acres in Size.**

1. Keeping of domestic companion animals of a type and in a manner that is in compliance with all relevant sections of City Code is permitted.
2. All farm type animals are permitted.
3. Feed lots, livestock confinement areas, or confined animal feeding operations are prohibited.



4. Any accessory structure related to the keeping of farm type animals shall comply with all of the following:
  - a. Any accessory structure associated with the keeping of less than 60 small, 20 medium, or less than 10 large type farm animals, other than swine, shall be set back 60 feet from the nearest parcel line.
  - b. Any accessory structure associated with the keeping of 60 or more small type farm animals, 20 or more medium type farm animals, or 10 or large type farm animals, or any number of swine shall maintain a 100 feet setback from the nearest parcel line.

**4-2-7 Keeping of Hives of Colonies of Bees.** Keeping of hives or colonies of bees is permitted subject to the following:

1. No more than 2 hives per acre are permitted.
2. Hives or colonies of bees shall be kept in a manner inaccessible to the general public.
3. Hives or colonies of bees shall be kept in a manner so that bee movements to and from the hive do not interfere with the ordinary movements of persons on adjacent properties or the public right-of-way.
4. Hives shall be located at least 60 feet from the nearest property line. The front of any beehive shall face away from the property line of the residential property closest to the beehive
5. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.
6. In the event a hive exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits unusual disposition toward swarming, the beekeeper shall

promptly re-queen the colony. Queens shall be selected from European stock bred for gentleness and non-swarming characteristics.

7. No Africanized bees may be kept on a property under the regulations of this section.

**4-2-8 Penalty.** A person convicted of a violation of this section is guilty of a municipal infraction punishable as a violation under Iowa Code and per Fruitland Code of Ordinances Title 1 Chapter 3.

# TITLE 5

## HUMAN DEVELOPMENT - EDUCATION AND CULTURE

Chapter 1      Library Services



## CHAPTER 1 LIBRARY SERVICES

5-1-1 Public Library

5-1-1 **Public Library** This title is intentionally left blank until such time as the establishment of a public library within the City of Fruitland.



## TITLE 6 PHYSICAL ENVIRONMENT

Chapter 1	Residential and Commercial Zoning District
Chapter 2	Planning and Zoning Commission
Chapter 3	Mobile Home Regulations
Chapter 4	Subdivision Regulations
Chapter 5	Building Code
Chapter 6	Certificate of Occupancy
Chapter 7	Building Permits
Chapter 8	Sidewalk Regulations
Chapter 9	Numbering of Buildings
Chapter 10	Natural Gas Franchise
Chapter 11	Outdoor Furnaces
Chapter 12	Utilities – Refuse Collections
Chapter 13	Utilities – Cable Franchise





## CHAPTER 1

### RESIDENTIAL AND COMMERCIAL ZONING DISTRICT

- 6-1-1 Purpose.
  - 6-1-2 Description of Residential Zone.
  - 6-1-3 Definitions.
  - 6-1-4 Residential District.
  - 6-1-5 Principal Permitted Uses.
  - 6-1-6 Permitted Accessory Uses.
  - 6-1-7 Bulk Regulations.
  - 6-1-8 Off-Street Parking and Loading.
  - 6-1-9 Commercial District.
  - 6-1-10 Principal Permitted Uses in Commercial District.
  - 6-1-11 Permitted Accessory Uses in Commercial District.
  - 6-1-12 Bulk Regulations in Commercial District.
  - 6-1-13 Suburban Agricultural District.
  - 6-1-14 Penalties.
  - 6-1-15 Amendments.
  - 6-1-16 Severability
- 6-1-1 Purpose.** The purpose of this Ordinance is to establish a Zoning Ordinance governing the City of Fruitland and providing reasonable rules and regulations pertaining to residential, commercial and agricultural districts in the City.

**6-1-2 Description of Residential Zone.** The entire City of Fruitland is hereby designated a Residential District, except for those portions of the City of Fruitland which are designated a Commercial District or Suburban Agricultural District in this Ordinance. Following the effective date of this Ordinance, the Commercial District shall be that District described as follows:

The area within the corporate limits of the City of Fruitland, Iowa, lying between North Street on the north, Center Street on the west, Main Street on the south, and the presently established railroad tracks on the east; and in addition, the lot or lots presently constituting 1.7 acres more or less and occupied by Hankins Fruitland.

The entirety of the City of Fruitland, except for the above described area, shall be designated as Residential District or Suburban Agricultural District, as defined on the City Zoning Map, which is hereby adopted by this reference, and the Official copy of said Map shall be kept on file by the Fruitland City Clerk at Fruitland City Hall. The said Zoning Districts shall be governed by the requirements of the Ordinance.

**6-1-3 Definitions.** For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and plural number includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

1. Accessory Use of Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Alley: A public way, other than a street, twenty (20) feet or less in width affording secondary means of access to abutting property.

3. Basement: A story having part but not more than one-half (1/2) of its height below grade is counted as a story for the purpose of height regulations.
4. Building: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.
5. Building, Height of: The vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
6. Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes but not including a tent, trailer or mobile home.
7. Dwelling Single-Family: A detached residence designed for and occupied by one family only.
8. Dwelling, Two-Family: A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
9. Dwelling, Multiple: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
10. Dwelling, Unit: A room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
11. Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over five persons.
12. Feed Lot: Any parcel of land or premises on which the principle use is the concentrated feeding within a confined area of cattle, hogs, poultry, sheep, or any other concentration of animals. The term

does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

13. Lot: For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of
  - a. A single lot of record
  - b. A portion of a lot of record
  - c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record
  - d. A parcel of land described by metes and bounds provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.
14. Lot. Corner: A lot abutting upon two (2) or more streets at their intersection.
15. Lot, Depth: The mean horizontal distance between the front and rear lot lines.
16. Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot
17. Lot, Interior: A lot other than a corner lot
18. Lot, Lines: The lines bounding a lot, including the right-of-way line of any public road or highway acquired by easement.

19. Lot of Record: A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
20. Lot Width: The width of a lot measured at the building line and at right angles to its depth.
21. Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it.
22. Story, Half: A space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four (4) feet above the top floor level.
23. Street Line: The right-of-way line of a street.
24. Street or Road, Public: Any thoroughfare or public way not less than twenty-four (24) feet in width, which has been dedicated to the public or deeded to the City or County for street purposes; and also, any such public way as may be created after enactment of this ordinance, provided it is sixty (60) feet or more in width.
25. Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls and fences (more than 6 feet in height), billboards, poster panels, solar collectors and dish antennae.
26. Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, except as may be provided by other sections of this ordinance. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a

side yard, the least distance between the lot line and the nearest permitted building shall be used.

27. Yard, Front: A yard extended across the full width of the lot and measured between the front line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. On corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension.
28. Yard, Rear: A yard extended across the full width of the lot and measured between the rear lot line and the building or any projection other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots, the opposite end of the lot from the front yard.
29. Yard, Side: A yard extended from the front yard to the rear yard and measured between the side lot lines and the nearest building.

**6-1-4 Residential District.** The Residential District is intended and designed to provide for certain low-density residential areas of the City now developed with single family dwellings, and areas where similar residential development seems likely to occur.

**6-1-5 Principal Permitted Uses.** Only the use of structures or land listed in this section shall be permitted in the Residential District.

1. Single family dwelling.
2. Churches, chapels, temples, and similar places of worship; provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines.
3. Public and parochial schools, elementary and secondary, and other educational institutions having an established current curriculum as ordinary given in the Iowa and public schools; provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines.

4. Publicly owned parks, playgrounds, golf courses, community centers, and recreational areas.
5. Private non-commercial recreational areas, including country clubs, swimming pools, tennis clubs and ball fields.
6. Electrical and natural gas transmission and regulating facilities, subject to hearing and approval by the Board of Adjustment.
7. Agricultural uses, including nurseries, greenhouses and truck gardens; provided that no offensive odors or dust are created and that no retail sales shall be permitted on the premises, and provided further, that the raising and keeping of livestock or roosters, including feed lots, shall not be permitted except upon application to the Fruitland Board of Adjustment and a special use permit being granted by said Board, and in no event shall such facility be permitted within 200 feet of property platted and developed for residential use.

#### **6-1-6 Permitted Accessory Uses.**

1. Uses of land or structures customarily incidental and subordinate to one of the permitted principal uses unless otherwise excluded.
2. Private garage or carport.
3. Home occupations as permitted in and as limited by this ordinance.
4. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed three (3) per building.
5. Temporary buildings for uses incidental to construction work which buildings shall be removed upon the completion or abandonment of the construction work.
6. Temporary use of a dwelling structure within a new subdivision as a job office and real estate office for the subject subdivision, which

use shall terminate upon completion or abandonment of the project.

7. One board or sign not to exceed fifty (50) square feet in area referring to the construction, lease, hire, or sale of a building, premises, or subdivision lots; which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed.
8. Church bulletin boards.
9. Day nurseries and nursery schools.

**6-1-7 Bulk Regulations.**

1. The following minimum requirements shall be observed subject to the modifications contained or allowed in this ordinance.
  - a. Lot Area: Single family dwellings – One-half acre. The square footage of all residential lots shall be sufficient to meet the requirements of Muscatine County, or the City of Fruitland requirements, if adopted in the future, for installation of septic tanks and septic systems.
  - b. Lot Width: Single family dwelling – 60 feet.
  - c. Front Yard: 25 feet. Minimum from property line.
  - d. Side Yard: Minimum on side – 8 feet from property line. On corner lots 25 feet set back on all sides adjacent to streets.
  - e. Distance between buildings: 16 feet between buildings 1-1½ stories tall, 20 feet between buildings 2-3 stories tall, 35 feet between schools or churches.
  - f. Rear Yard: 35 feet minimum from property line.
  - g. Maximum Height: Principal building: 35 feet.
  - h. Maximum Number of Principal building: 3 stories.



- i. Minimum Residence Width: 24 feet.
- j. Minimum Square Footage: All residences shall have a minimum square footage of 980 square feet. Two-story buildings shall have a minimum square footage of 1200 square feet.
- k. Utility Hookups: All residences shall be hooked up to all City utilities. When the city has water available any structure on the lot with water or restroom facilities shall hook up to it, otherwise private septic tanks or private wells shall be allowed; however septic systems and tanks must be at least 100 feet from any well.
- l. Foundations: All residences shall be built on permanent foundations of cement with footings not less than 32 inches deep,
- m. Minimum Lot Dimensions: No dwelling or mobile home shall be placed on any lot with one dimension which is less than 60 feet.
- n. Residential Accessory Buildings: Maximum height 18 feet. No accessory building shall be permitted within 8 feet of any property line. The City will hold the property owner responsible for knowledge of existing easements. There will be no more than 2 feet overhang, Any accessory building of 380 sq. ft. (square feet). or more must have a 12 inch footings.
- o. Concrete Street Entrances: All new driveway entrances to a city street, and all existing driveway entrances which are reconstructed shall be constructed of Portland cement concrete, and only Portland cement concrete shall be used to surface such driveway entrances from the paved portion of the street to the property line. Such driveway entrances shall be subject to city inspection and approval by the City

Engineer or such other inspector as the City Council may designate.

2. All new construction in the City of Fruitland shall be governed by the following requirements:
  - a. All multi-family dwelling units shall be provided with not less than one off-street parking space per unit. The Fruitland Planning and Zoning Commission shall have the power to require more than one parking space for any multi-family dwelling unit which they are reviewing, if in their discretion additional off-street parking should be required.
  - b. Each multi-family dwelling unit shall be constructed with two bedrooms per unit. Under no circumstances shall less than two bedrooms or more than two bedrooms be permitted unless the developer of the multi-family dwelling unit first obtains a variance from the City of Fruitland after notice and hearing pertaining to the issuance of variances.
  - c. No unit larger than a fourplex shall be permitted in the City of Fruitland.
  - d. No multi-family dwelling unit shall be smaller than 920 square feet per dwelling unit.
  - e. Each dwelling unit must clearly display its own individual address in the same manner as that required by City Ordinances for all other residences within the City.
3. Any new house, addition, or accessory building shall be inspected by the city building inspector before sheet-rock or insulation is installed. The city building inspector shall have the right to order that construction be stopped until the inspector has had adequate opportunity to make the inspections required to enforce this Ordinance and any other pertinent City Ordinances the inspector may order, or that such construction stop until all standards imposed by any Fruitland Ordinance are complied with fully.

- 6-1-8 Off-Street Parking and Loading.** Spaces for off-street parking and loading shall be provided in accordance with the provisions of this ordinance. In the absence of more specific requirements, each dwelling shall provide not less than two off-street parking spaces, each such space to be not less than 300 square feet in area.
- 6-1-9 Commercial District.** The Commercial District is intended to provide for the general retail shopping of persons living in Fruitland and the surrounding rural areas. The District is designed to include the business district area. Bulk regulations are not required, due to the density of the existing development
- 6-1-10 Principal Permitted Uses in Commercial District.**
1. Only the use of structures or land listed in this section shall be permitted in the Commercial District.
  2. Retail business or service establishments such as the following:
    - a. Antique shops.
    - b. Apparel shops.
    - c. Art shops.
    - d. Automobile accessory stores.
    - e. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots). This paragraph shall not be construed to include automobile, tractor, or machinery wrecking and rebuilding and used parts yards,
    - f. Bakeries or bakery outlets, retail sales only.
    - g. Banks, savings and loan associations and similar financial institutions.
    - h. Barber shops, and beauty parlors.
    - i. Bicycle shops, sales and repair.

- j. Billiard parlors and pool halls.
- k. Book stores.
- l. Bowling alleys.
- m. Camera stores.
- n. Carpenter and cabinet making shops,
- o. Clothes cleaning and laundry pick-up stations.
- p. Collection office of public utility.
- q. Confectionery stores, including ice cream or snack bars.
- r. Dairy stores, retail only.
- s. Delicatessens.
- t. Department stores.
- u. Dance halls.
- v. Dance studios.
- w. Drug stores.
- x. Dry goods stores.
- y. Florist shops.
- z. Funeral homes and mortuaries,
- aa. Furniture stores.
- bb. Gas stations.
- cc. Garage for general motor vehicle repair.
- dd. Garages for general motor vehicle body repair.
- ee. Gift shops.
- ff. Grocery stores, including supermarkets.

- gg. Hardware stores.
- hh. Hobby shops.
- ii. Hotels and motels.
- jj. Household appliances, sale and repair.
- kk. Jewelry stores and watch repair shops.
- ll. Launderettes, coin-operated dry-cleaning establishments, and dry cleaning or pressing establishments using only non-flammable solvents.
- mm. Lawn mower repair shops.
- nn. Locker plant for storage and retail sales only.
- oo. Leather goods stores.
- pp. Liquor stores.
- qq. Music stores and music studios.
- rr. Office buildings.
- ss. Paint and wallpaper stores.
- tt. Pet shops.
- uu. Photographic studios, printing and developing establishments.
- vv. Plumbing and heating shops.
- ww. Post offices.
- xx. Printing and lithographing shops.
- yy. Public auction rooms.
- zz. Radio and television sales and repair shops.
- aaa. Restaurants.

- bbb. Sheet metal shops.
- ccc. Shoe and hat repair shops.
- ddd. Sporting goods stores.
- eee. Tailor and dressmaking shops.
- fff. Taverns and night clubs.
- ggg. Theaters.
- hhh. Toy stores.
- iii. Upholstering shops.
- jjj. Used car sales lots.
- kkk. Variety stores.
- lll. Veterinary clinics.
- mmm. Combinations of the above uses.
- nnn. Medical and dental clinics.
- ooo. The office of a doctor, dentist, osteopath, chiropractor, optometrist or similar profession.
- ppp. Business and professional offices including the following:  
law, engineering, architecture, real estate, contractor,  
insurance, accounting and bookkeeping and similar uses.

**6-1-11 Permitted Accessory Uses in Commercial District.**

1. Accessory uses and structures customarily incidental to any principal permitted use.
2. Storage of merchandise incidental to the principal use.
3. Exterior signs located on the street frontages of principal buildings referring only to a use or uses located within such building, and attached or integral thereto, provided that:

- a. Such signs shall not have an aggregate surface area in excess of twenty (20) per cent of the total surface area of the building elevation to which they are attached;
  - b. Signs which project out from the building more than eighteen (18) inches must be at least twelve (12) feet above grade and may project a maximum of six (6) feet;
  - c. No signs shall project more than four (4) feet above the roofline or parapet where one exists.
4. One free standing or post sign referring only to a use or uses conducted on the premises may be erected in any yard abutting a public street, provided however:
- a. That such sign shall not have a surface area in excess of one hundred (100) square feet on any one side and not more than two sides of said sign shall be used for advertising purposes;
  - b. The bottom of the surface area of such sign shall not be less than twelve (12) feet above the ground surface upon which it is erected.

**6-1-12 Bulk Regulations in Commercial District.** The following minimum requirements shall be observed in the commercial district.

1. Lot Area: No minimum requirement.
2. Lot Width: No minimum requirement.
3. Front Yard: No minimum requirement.
4. Side Yards: No minimum requirement except when adjoining any Residential District, in which case ten (10) feet
5. Rear Yard: None required, except when adjoining any Residential District, in which case twenty-five (25) feet
6. Maximum Height: 45 feet

7. Maximum Number of Stories: 4 stories.

**6-1-13 Suburban Agricultural District.** That portion of the City of Fruitland lying outside the Residential District and the Commercial District as shown on the City Zoning Map shall be designated as the Suburban Agricultural District, which shall be subject to the following regulations:

1. General Description. The Suburban Residential District is intended to provide regulations for land situated on the fringe of the urban area, that is used primarily for agricultural purposes, but which is likely to be undergoing urban development in the future. Many tracts in this district will be in close proximity to developing residential, commercial or industrial uses. The purpose of this district is to restrict the permitted uses to those which are compatible with both agricultural uses and the developing residential, commercial or industrial uses.
2. Principal uses permitted. Property and buildings in the Suburban Agricultural District shall be used only for the following purposes:
  - a. Agricultural crops, but not the keeping of farm animals, horticultural, dairy farming, livestock farming, poultry farming, general farming, truck gardening and other agricultural activities; except as those activities be permitted below.
  - b. Single-family dwellings
  - c. Manufactured housing
  - d. Churches and temples
  - e. Family homes
  - f. Public schools, elementary, junior high and high schools
  - g. Parochial or private schools having similar curricular as public schools and having no rooms used regularly for housing or sleeping purposes



- h. Public buildings, public or semipublic parks, playgrounds or community buildings
  - i. Accessory uses and buildings which are customarily incidental to any of the above state uses, but not involving the conduct of business
3. Use exceptions: The following use exceptions are deemed appropriate on review by the board of adjustment in accordance with provisions contained in this title.
- a. Hospitals, sanitariums, rest, nursing and convalescent homes; homes for orphans and aged on sites of one acre or more; off-street parking and yards comparable for other institutional uses to be provided under this chapter
  - b. Public utilities
  - c. Cemetery or mausoleum
  - d. Recreational development for seasonal or temporary use
  - e. Roadside stand for sale of produce raised on the premises
  - f. Extraction of sand, gravel, topsoil or other natural resources, provided the land is restored to a condition suitable for the permitted uses of this district
  - g. Dog kennels
  - h. Railroads
  - i. Riding stables
  - j. Greenhouses and plant nurseries operated for commercial purposes;
  - k. Dairy farming, livestock farming, poultry farming, general farming and other agricultural activities.

4. Lot area, frontage and yard requirements, Lot area, frontage, yard requirements and mobile home regulations in the Suburban Agricultural District are those regulations as specified in Sections 7, 8, 9, 10, 11, 12, and 13, and Definitions shall be the same as those set forth in Section 3 of this ordinance.
5. The City of Fruitland deems it of importance to the health and welfare of its citizens to be especially attentive to the establishment of large livestock operations, such as "hog factories" or large poultry facilities which can become a nuisance or health hazard if located too near concentrations of population. Therefore, no person, property owner, tenant or corporation in control of any property situated within the Suburban Agricultural District shall be permitted to establish any feedlot or any new livestock operation, or to expand any presently existing feedlot or livestock operation unless granted a use exception by the Fruitland Board of Adjustment. By "expansion" is intended the increase of numbers of livestock or poultry to a level 150% or higher of the number raised or processed as of the effective date of this ordinance. Any livestock operation larger than that level, and all new livestock operations, shall be deemed a livestock operation prohibited by this Ordinance, unless the owner, tenant or operator thereof shall have first obtained from the Fruitland Board of Adjustment a use exception allowing the new or expanded livestock operation. In the event of a violation of this Subsection, the City shall be entitled to any remedy permitted by law, including injunctive relief.

- 6-1-14 Penalties.** Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connections with grants of variances or special exceptions) shall constitute a simple misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days, and in addition shall pay all costs and expenses involved in the case. Each day such violations continues shall be considered a separate offense. In addition, the City of Fruitland shall be entitled to enforce provisions of this Ordinance by all other lawful means, including seeking injunctive relief, or by mandamus, or other appropriate lawful action necessary to prevent, correct, or abate any violation, or the City may elect to enforce this Ordinance by use of a Municipal Infractions Ordinance. Any violation of any provision of this Ordinance shall be deemed a municipal infraction.
- 6-1-15 Amendments.** The City Council may, from time to time, on its own action or on petition, after public notice and hearings as provided by law, and after report by the Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the City Council.
1. Procedures: Whenever any person, firm or corporate desires that any amendment, or change be made in this ordinance, including the text and/or map, as to any property covered by this ordinance, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty (50) percent of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of fifty (50) percent of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, and intervening streets and alleys not to be included in computing such two hundred fifty (250) feet, it shall be

the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the City Clerk. Prior to voting or holding a public hearing upon the petition as submitted, the City Council shall refer the petition as submitted, the City Council shall refer the petition to the Zoning Commission requesting its comments and recommendations. The commission, after public hearing, shall advise the City Council of its recommendations and the vote thereon.

2. Protests: In case the proposed amendment, supplement or change be disapproved by the Zoning Commission, or a written protest be presented against a proposed change or repeal which is duly signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change or repeal, or by the owners of twenty (20) percent or more of the property which is located within two hundred feet (200) of the exterior boundaries of the property for which the change or repeal is proposed, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the Council. Whenever any petition for amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been denied by the City Council, then no new petition covering the same property or the same property and additional property shall be filed with or considered by the City Council until one (1) year shall have elapsed from the date of filing of the first petition.
3. Filing Fees: Before any action shall be taken as provided in this Section, the owner or owners of the property proposed or recommended to be changed in the district regulations or district boundaries shall pay to the City Clerk the sum of one hundred dollars (\$100) to cover the costs of the procedure. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

4. City Action: Nothing herein shall prevent the City of Fruitland from making changes to this Ordinance at any time on its own motion and pursuant to all procedures required by law.

**6-1-16 Severability** If any section, subsection, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjunction shall not affect the validity of this Ordinance as a whole or any section, subsection, provision or part thereof not adjudged invalid or unconstitutional.



## CHAPTER 2

### PLANNING AND ZONING COMMISSION

- 6-2-1 Purpose.
- 6-2-2 Planning and Zoning Commission.
- 6-2-3 Term of Office.
- 6-2-4 Powers.
- 6-2-5 Severability.
- 6-2-1 Purpose.** The purpose of this Ordinance is to set forth the provisions of the Fruitland City Code governing the Fruitland Planning and Zoning Commission.
- 6-2-2 Planning and Zoning Commission.** The City Planning and Zoning Commission shall be composed of five members. Such membership shall be composed of residents of the City of Fruitland. Said members shall be qualified by knowledge and experience to act in matters pertaining to the development of City planning and zoning. The members of the Planning and Zoning Commission shall be appointed by the City council.
- 6-2-3 Term of Office.** All members of the Planning and Zoning Commission in office on the effective date of this Ordinance shall continue to hold office for the terms for which they were appointed. The term of office of said members shall be five years with the terms of not more than two of the members will expire in any one year. The position of any officer who is a member by reason of his or her office shall be vacant upon his or her resignation or his or her leaving office for any other reason. Any vacancy occurring on the Planning and Zoning Commission, caused by resignation or other event, shall be filled by the City Council for the unexpired term. All members of such Commission shall serve without compensation except their actual expenses which shall be subject to the approval of the City Council.

**6-2-4 Powers.** Said Commission shall have and possess the following powers, and such other powers as may be incidental to the successful carrying out of the powers vested in it herein or such as may be expressly conferred upon it by law:

1. To carry out all powers and duties provided for or described in Section 414.6 of the Code of Iowa or any other relevant provision of State law.
2. To make such surveys, studies, maps, plans, or plats of the whole or any portion of the City and of any land outside thereof, which in the opinion of such Commission bears relation to a comprehensive plan, and shall submit such plan to the Council with its studies and recommendations and it may publish the same.
3. To prepare or periodically to amend and update a comprehensive plan regarding the height, number of stories, and size of buildings and other structures; the percentage of ground that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes and to this end shall prepare a preliminary report and hold public meetings thereon and after such hearings have been held, to submit its final report and recommendations to the City Council.
4. Review all plans, plats, or replats of subdivision or resubdivision of land embraced in the municipality or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions intended for public dedication to the municipality;
5. Make careful and comprehensive studies of present conditions and future growth of the municipality with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality and its environments which will promote health, safety, morals, order,



convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development;

6. Hold at least one public hearing before the adoption of any such comprehensive plan, notice of which shall be given by local newspaper not less than seven nor more than twenty days before the date of the hearing. The adoption of the plan shall be by resolution of the commission carried by the affirmative vote of a simple majority of the members;
7. Consider or recommend any proposed amendments or modifications of the adopted comprehensive plan. If the Planning and Zoning Commission disapproves the proposed change it may be adopted by the Council only by the affirmative vote of at least three-fourths of the Council members;
8. Recommend to the City Council changes in any zoning regulations or districts;
9. File recommendations in connection with any proposed changes in the zoning regulations or districts made by the City Council;
10. To study future conditions and to survey street and traffic problems.
11. To consider all plans for mobile home parks or courts or trailer parks or courts in Fruitland, pursuant to the Fruitland Zoning Ordinance, or any other City Ordinance or State law, including requiring concrete streets in such parks or courts. The Commission may require any other public improvements the Commission deems necessary in mobile home parks or courts or trailer parks or courts in the City of Fruitland.

**6-2-5 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.



## CHAPTER 3

### MOBILE HOME REGULATIONS

- 6-3-1 Purpose.
  - 6-3-2 Definitions.
  - 6-3-3 Mobile Home Regulations.
  - 6-3-4 Statement of Intent.
  - 6-3-5 Principal Permitted Uses in Mobile Home Parks.
  - 6-3-6 Permitted Accessory Uses in Mobile Home Parks.
  - 6-3-7 Bulk Regulations.
  - 6-3-8 Plan Required.
  - 6-3-9 Special Permits for Location of Mobile Homes Outside Mobile Home Parks.
  - 6-3-10 Emergency and Temporary Parking.
  - 6-3-11 Regulations to Which Mobile Home Park Owners are Subject.
  - 6-3-12 Penalties for Violation.
  - 6-3-13 Amendments.
  - 6-3-14 Severability.
- 6-3-1 Purpose.** The purpose of this ordinance is to provide for municipal regulation of mobile homes and mobile home parks in furtherance of the public health, safety, morals and welfare.
- 6-3-2 Definitions.** For use in this ordinance the following terms are defined.
1. Mobile Home: Any vehicle which at any time was used, maintained or so originally constructed as to permit being used as a conveyance upon highways or public streets, or waterways, and duly licensed as such; so designed and so constructed as to permit occupancy thereof as a dwelling unit or sleeping place for one or

more persons, whether attached or unattached to a permanent foundation.

2. Mobile Home Park or Trailer Park: Any lot or portion of a lot upon which one or more mobile homes or trailers occupied for dwelling or sleeping purposes are located regardless whether or not a charge is made for such accommodations. Whenever in this Ordinance reference is made to "mobile home park", "mobile home court", "trailer park", or "trailer court", it shall be deemed to refer to one and the same thing and this definition shall apply to it.

**6-3-3 Mobile Home Regulations.** Mobile home parks may be established following submission of a petition and plan as provided in Section 8 of this Ordinance. Following the establishment of a mobile home park the following regulations shall apply;

1. All inhabited mobile homes shall be located in a mobile home court which has received a conditional use permit and which conforms with the requirements of the following paragraph. No mobile home outside of an approved mobile home court shall be connected to utilities, except those mobile homes being offered for sale and not inhabited,
2. Mobile home courts shall meet the following minimum standards:
  - a. Each lot provided for the occupancy of a single mobile home unit shall have an area of not less than seven thousand (7,000) square feet and a width of not less than sixty (60) feet, and no mobile home court shall be permitted with an average density of mobile home lots of more than seven (7) per acre, and each mobile home court shall provide an area of not less than fifteen (15) total acres. Each lot shall have provisions for at least two (2) frame ties and two (2) over-the-top tiedowns equal to or better than the specifications outlined in Booklet Tr-75 published by the Department of Defense,

- b. All mobile home courts shall provide lots sufficient in size that no mobile home or any structure, addition, or appurtenance thereto is located less than eight feet (8') from the nearest adjacent court boundary.
- c. Space between mobile homes may be used for the parking of motor vehicles if the space is clearly designated and the vehicle is parked at least ten feet (10') from the nearest adjacent buildings,
- d. Each mobile home site shall abut or face a clear unoccupied space, driveway, roadway, or street of not less than fifty feet (50') in width, which shall have unobstructed access to a public highway, street or alley.
- e. The mobile home court shall be surrounded by a landscaped strip of open space fifty feet (50') wide along the street frontage of a major street and twenty-five feet (25') wide along all other lot lines or street frontage,
- f. All mobile homes located in any mobile home park shall be situated on a frost-free foundation, and concrete slabs. In addition, concrete slabs not less than 20 feet in width shall be provided for parking such that not less than two motor vehicles may be parked on each mobile home lot. However, the Planning and Zoning Commission shall have discretion, following investigation and hearing before the Commission, to recommend that Mobile Home Park lots may be established with concrete slabs only, and waive the requirements of frost-free foundations. One consideration for such waiver of the foundation requirement may be that the Mobile Home Park owner certifies to the City that the lots permitted such a waiver will only be used for rented mobile home units, and the lots will not be sold to individual mobile home owners. The Planning and Zoning Commission shall require any certifications or covenants, or other binding obligations of the owner, prior to

- recommending to the City Council that the requirement of foundation be waived as to specific lots.
- g. There shall be no on-street parking allowed in any mobile home park.
  - h. Accessory buildings: Maximum height 18 feet. No accessory building shall be permitted within 8 feet of any property line nor on any utility easements. The City will hold the property owner responsible for knowledge of existing easements. There will be no more than 2 feet overhand and any accessory building of 380 square feet. or more must have a 12-inch footing.
  - i. No mobile home shall be permitted at any mobile home park which is more than 10 years old. Mobile homes manufactured more than 10 years previous to the date that the ownership of the mobile home changes, shall be removed from the mobile home park upon conveyance to a new owner.
  - j. Mobile homes shall be used only for single family occupancy.
  - k. Mobile homes shall be owner occupied.
  - l. All mobile home parks shall construct and maintain a substantial eight-foot chain link fence on the entire outer boundary of the mobile home park.
3. Mobile home parks shall meet the following minimum standards regarding streets:
- a. All mobile home parks shall be served by an adequate network of concrete streets within the park. The streets shall be constructed of Portland cement concrete. Each mobile home and each mobile home lot within the park shall be provided with not less than 60' frontage on a paved

concrete street. The street layout and design shall be included in the Plan required under Section 14 of this Ordinance. That plan shall include full engineering details and specifications concerning the depth of concrete, street width, street reinforcing and all other aspects of street design. The Planning and Zoning Commission may retain an engineer to review the street design, and the cost of any such engineering consultation by the City shall be borne by the Developer submitting the plan. The Planning and Zoning Commission shall have discretion to recommend changes in design and layout of streets to accommodate specific needs of the mobile home park developer, but nothing in this Ordinance shall require the Planning and Zoning Commission or the City Council to agree to plans or specifications less rigorous than the minimum requirements set out in this Ordinance.

- b. All streets contained within mobile home parks shall be not less than 24 feet in width. The total right-of-way of any street in a mobile home park shall be not less than 50 feet in width, of which not less than 24 feet in width shall be permanently paved with Portland cement concrete. The Planning and Zoning Commission or the City Council may in its discretion require curb and gutter. The Planning and Zoning commission or the City Council may require that said street be dedicated to the City of Fruitland.
- c. For all mobile home parks, the street plan for the mobile home park shall provide for a street system with more than one entrance and exit from the mobile home park. The street system shall not end in a dead end or cul-de-sac, and shall provide a street layout such that a loop road or equivalent layout is provided and there is more than one entrance and exit from the mobile home park. The Planning and Zoning Commission and the City Council may require any further modifications in design to provide for adequate

traffic circulation and adequate access to the mobile home park for fire protection.

**6-3-4 Statement of Intent.** A Mobile Home Park is intended and designed to provide for certain high-density residential areas of the City for development of mobile home parks, which by reason of their design and location will be compatible with nearby residential areas.

**6-3-5 Principal Permitted Uses in Mobile Home Parks.**

1. Only the use of structures or land listed in this section shall be permitted in any Mobile Home Park.
2. Any use permitted in the Residential District.
3. Mobile home parks, in accordance with the provisions of this section and applicable State statutes.

**6-3-6 Permitted Accessory Uses in Mobile Home Parks.**

1. Accessory uses permitted in and as limited in the Residential District.
2. Accessory buildings as may be required by State statute.
3. One indirectly lighted sign may be erected facing each public street on which the mobile home park fronts, showing the name of the mobile home park and other information pertinent thereto; provided that such sign shall not have an area of more than twenty (20) square feet.

**6-3-7 Bulk Regulations.** The following requirements shall be observed:

1. For any permitted use excepting a mobile home park the minimum requirements shall be the same as those set out for the Residential District.
2. For any mobile home park, the requirements shall be as follows:
  - a. Each yard abutting on a public street shall be considered a front yard and shall be a minimum of fifty (50) feet;



- b. All other yards, whether side or rear, shall be a minimum of fifty (50) feet when adjacent to the Residential District and thirty-five (35) feet if not adjacent to that District.
- c. The minimum lot space for each mobile home shall be 7,000 square feet and shall measure at least sixty (60) by one hundred seventeen (117) feet;
- d. Mobile homes shall be located on each space so that there will be at least a twenty (20) foot clearance between each mobile home, a five (5) foot open space between the mobile home including any permanently enclosed appendage, and any driveway, walkway, or mobile home space boundary; and a ten (10) foot open space at the rear of the mobile home.

**6-3-8 Plan Required.** Any interested person may apply for permission to establish a mobile home park in the Residential District or the Suburban Agricultural District. Each petition for a change to a Mobile Home Park zoning classification submitted to the City Council shall be accompanied by a mobile home park plan. Said plan shall show each mobile home space, the water, electrical and sewer lines serving each mobile home space, the location of fire hydrants, service buildings, driveways, walkways, recreation areas, required yards, parking facilities, lighting and landscaping. If public water and sanitary sewerage facilities are not available to the mobile home park site, private water and sewerage systems shall be provided in accordance with the requirements of the Iowa Department of Natural Resources subject to approval of the City Council. The plan shall be considered by the Planning and Zoning Commission and the City Council, who may approve or disapprove said plan or require such changes thereto, as are deemed necessary to effectuate the intent and purpose of this ordinance. All changes to the Mobile Home Park classifications shall be made in accordance with the provisions of this portion of this ordinance relating to the amendments.

The Planning and Zoning Commission or the City Council may retain an engineer to review any mobile home park Plan, or obtain any other technical assistance that the Planning or Zoning commission or the City council may require. The cost of any such engineer or technical assistance shall be borne by the developer and shall be paid in full before any permit is granted for the construction of any improvements in a mobile home park.

**6-3-9 Special Permits for Location of Mobile Homes Outside Mobile Home Parks.** The City Council, upon application of a mobile home owner, may issue special permits for the location or habitation of mobile homes outside mobile home parks. The Council shall issue such special permits when it appears that location within local mobile home parks is impracticable 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 three years, 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.
4. The fee of \$50.00 shall accompany this application.

**6-3-10 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 24 hours shall not constitute a violation of SECTION 3, but such parking shall be subject to any prohibitions or regulations contained in other ordinances of this City.

- 6-3-11 Regulations to Which Mobile Home Park Owners are Subject.** No person, firm or corporation shall establish, maintain, conduct or operate a mobile home park within this city without first obtaining an annual license therefor from the State Department of Health. No person, firm or corporation shall construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park within this City without first obtaining a permit therefor from the State Department of Health.
- 6-3-12 Penalties for Violation.** Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants or variances or special exceptions) shall constitute a simple misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. In addition, the City of Fruitland shall be entitled to enforce provisions of this Ordinance by all other lawful means, including seeking injunctive relief, or by mandamus, or other appropriate lawful action necessary to prevent, correct, or abate any violation, or the City may elect to enforce this Ordinance by use of a Municipal Infractions Ordinance. Any violation of any provision of this Ordinance shall be deemed a municipal infraction.
- 6-3-13 Amendments.** The City Council may, from time to time, on its own action or on petition, after public notice and hearings as provided by law, and after report by the Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the City Council.
1. Procedures. Whenever any person, firm or corporation desires that any amendment, or change be made in this ordinance, including the text and/or map, as to any property covered by this ordinance, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property

and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty (50) percent of the area of all real estate including within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of fifty (50) percent of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, and intervening streets and alleys not to be included in computing such two hundred fifty (250) feet, it shall be the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the City Clerk.

Prior to voting or holding a public hearing upon the petition as submitted, the City Council shall refer the petition to the Zoning Commission requesting its comments and recommendations" The commission, after public hearing, shall advise the City Council of its recommendations and the vote thereon.

2. Protests. In case the proposed amendment, supplement or change be disapproved by the Zoning Commission, or a written protest be presented against a proposed change or repeal which is duly signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change or repeal, or by the owners of twenty (20) percent or more of the property which is located within two hundred feet (200) of the exterior boundaries of the property for which the change or repeal is proposed, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the Council. Whenever any petition for amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been denied by the City Council, then no new petition covering the same property or the same property and additional property shall be filed with or considered by the City Council until one (1) year shall have elapsed from the date of filing of the first petition.

3. Filing fees. Before any action shall be taken as provided in this Section, the owner or owners of the property proposed or recommended to be changed in the district regulations or district boundaries shall pay to the City Clerk the sum of one hundred dollars (\$100) to cover the costs of the procedure. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.
4. City Action. Nothing herein shall prevent the City of Fruitland from making changes to this Ordinance at any time on its own motion and pursuant to all procedures required by law.

**6-3-14 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.



## CHAPTER 4 SUBDIVISION REGULATIONS

- 6-4-1 Purpose.
- 6-4-2 Definitions.
- 6-4-3 Platting Required.
- 6-4-4 Procedure.
- 6-4-5 Requirements of Preliminary Plat.
- 6-4-6 Referral of Preliminary Plat.
- 6-4-7 Action by the Planning Commission.
- 6-4-8 Final Plat.
- 6-4-9 Referral of Final Plat.
- 6-4-10 Requirements of the Final Plat.
- 6-4-11 Action by the Planning Commission.
- 6-4-12 Action by the City Council.
- 6-4-13 Improvements Required.
- 6-4-14 Penalties for Violation.
- 6-4-15 Amendments.
- 6-4-16 Severability.

**6-4-1 Purpose.** The purpose of this Ordinance is to provide reasonable rules and regulations pertaining to subdivisions in the City of Fruitland.

**6-4-2 Definitions.** For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense shall include the futures; the singular; and, the term "shall" shall always be mandatory.

1. The term "alley" shall mean a public right-of-way, other than a street, a minimum of twenty (20) feet in width affording secondary means of access to abutting property.
2. The term "block" shall mean an area within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
3. The term "building lines" shall mean a line on a plat between which line and public right-of-way no buildings or structures may be erected.
4. The term "clerk" shall mean the city clerk of the City of Fruitland, Iowa.
5. The term "commission" shall mean the city planning and zoning commission of the City of Fruitland, Iowa.
6. The term "council" shall mean the city council of the City of Fruitland, Iowa.
7. The term "cul-de-sac" shall mean a minor street having one open end to traffic and terminated by a vehicular turnaround located at the exterior boundary of the subdivision with a minimum radius of sixty (60) feet.
8. The term "easement" shall mean a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.
9. The term "lot" shall mean a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development with a minimum frontage of one hundred (100) feet and area of one-half (1/2) acre.
10. The term "major street" shall mean a street a minimum of sixty (60) feet in width of considerable continuity connecting various sections of a city designated as a major street on the official major street plan of the City.



11. The term "minor street" shall mean a street minimum of fifty (50) feet in width which is used primarily for access to the abutting properties or access to the subdivision.
12. The term "performance bond" shall mean a surety bond or cash deposit made out to the City of Fruitland, Iowa, in an amount equal to the full cost of the improvements which are required by this ordinance, said cost estimate 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.
13. The term "plat" shall mean a map, drawing or chart on which the subdivider's plan of the subdivision of land is presented in which he submits for approval and intends, in final form, to record.
14. The term "subdivider" shall mean a person, firm or corporation undertaking the subdivision or resubdivision of a tract or parcel of land.
15. The term "subdivision" shall mean a subdivision is the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or, the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

- 6-4-3 Platting Required.** Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the city or within two (2) miles from the corporate limits, 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.
- 6-4-4 Procedure.** In obtaining final approval of a proposed subdivision by the city planning commission and the city council, the subdivider shall submit a preliminary plat in accordance with the requirements hereafter set forth.
- 6-4-5 Requirements of Preliminary Plat.** The subdivider shall first prepare and file with the city clerk, together with a fee of One hundred and no/100 (\$100.00) Dollars, eight (8) copies of a preliminary plat of adequate scale and size showing the following:
1. The scale used on the drawings.
  2. The title under which the proposed addition or subdivision is to be known and recorded.
  3. The dimensions of all platted lots and platted areas.
  4. The location, width, and dimensions of all streets, alleys, and grounds proposed to be dedicated for public use.
  5. The location of all property lines, water courses, streets, alleys, public grounds and similar features adjoining the platted area.
  6. The location and dimensions of all areas to be reserved for future use as school sites, parks, playgrounds, or similar features and which are to be dedicated to the public for such use.
  7. The location and size of existing storm or sanitary sewers, water mains, or field drains, within or readily accessible to the platted area.

8. The location and character of all existing easements and those proposed to be provided by the owner for utility purposes.
9. The location, dimensions and present use of existing buildings within the platted area.
10. The bearing and distance from some monumented block or lot corner within the platted area to some corner of a congressional division within the City.
11. A legal description of the area being platted together with the name or names of the owners and the name and seal of the registered engineer or surveyor making the plat.
12. All elevations shown on the plat, profiles, and cross sections shall be referred to City datum.
13. The names, as shown on the last deed of record, of all property owners within two hundred (200) feet of the proposed subdivision.

**6-4-6 Referral of Preliminary Plat.** The City clerk shall forthwith retain one (1) copy of the preliminary plat and refer seven (7) copies to the city planning commission.

**6-4-7 Action by the Planning Commission.** The city planning commission shall, as soon as possible, but not more than thirty days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, and pass upon the preliminary plat as originally submitted or modified. If the city planning commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the city planning commission or disapproval of the cause the

revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the city planning commission shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.
3. The action of the city planning commission shall be noted on seven (7) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copies retained by the commission.
4. The "Conditional Approval" by the city planning commission shall not constitute final acceptance of the addition or subdivision by the city but an authorization to proceed with preparation of the final plat.

**6-4-8 Final Plat.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

**6-4-9 Referral of Final Plat.** The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the city planning commission, prepare and file eight (8) copies of the final plat and other required documents with the city clerk as hereafter set forth, and upon his failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the city planning commission. Upon receipt of the final plat and other required documents, the city clerk shall transmit seven (7) copies of the final plat to the city planning commission for its recommendations and approval.

**6-4-10 Requirements of the Final Plat.** The final plat shall contain all information required to be shown on the preliminary plat and, in addition, the following information:

1. The proposed names of all streets, public ways and places dedicated for public use.
2. The type and location of all permanent monuments at block and lot corners and elsewhere within the platted area.
3. All radii, arcs, chords, points of tangency and central angles for curved streets and the radii of all rounded curves shall be shown on the plat.
4. The certification of the engineer or surveyor preparing the plat with his license number and seal and the date of survey.
5. Certificate of approval for construction of water, electric and gas service from the respective utility companies accompanied by plat showing easements required.
6. The subdivider shall file with the City two (2) sets of improvement plans and profile, one set reproducible. All plans and drawings to be submitted on twenty-four inch by thirty-six inch (24" by 36") plan and profile paper.

**SECTION 10A: SUBDIVISIONS WITHIN TWO MILES OF THE CITY OF FRUITLAND:**

Pursuant to the authority granted to the City under Section 354.9 of the 1997 Code of Iowa, the City of Fruitland shall require that any tract, lot, or parcel of land of record at the time of the adoption of this Ordinance which is located outside the Corporate Limits and which shall hereafter be subdivided into three (3) or more parts for the purpose of making an addition, subdivision, or residential lots shall, pursuant to Section 354.9 of the 1997 Code of Iowa, be approved by the City Council.

The plats of any subdivision located outside the Corporate Limits of the City, but within two (2) miles of the Corporate Limits, shall be examined

by the City Council and the City Planning and Zoning Commission, with a view to ascertaining whether the same conform to the City Ordinances relating to plats and whether streets, alleys, boulevards, parks, and public places conform to the general plat of the City and are conducive to an orderly development thereof, and provide extensions of the street system which the city considers necessary, and do not conflict or interfere with rights-of-way or extensions of streets or alleys already established, or otherwise interfere with the carrying out of the Comprehensive City Plan. If such plats shall conform to the Statutes of the state and Ordinances of the City and if they shall fall within the general plan for the City and the extensions thereof, regard being had for public streets, alleys, parks, sewer connections, water service, and service of other utilities, then the Council and the Planning and Zoning Commission may endorse their approval upon the plat; provided that the City Council may require, as a condition of approval of such plats, that the owner of the land bring all streets to a grade and standard acceptable to the Council and comply with such other improvements as the Council may deem requisite for the protection of the public interest.

All newly constructed roadways providing access to lots within two (2) miles of the Corporate Limits shall be in conformance with the county right-of-way width of sixty-six feet (66') and shall be improved as required by the City Council; the minimum improvements shall provide a twenty-four foot (24') wide roadway surface and shall be constructed with a surface material having an equivalent to a Structural Number (SN) of 4.0. The City Council may require street and roadway improvements in addition to the minimums as provided in this Section. Also, the City Council may require other improvements as it deems requisite for the protection of the public interest. The approval of any such plat, whether or not such approval requires complete compliance with the provisions of this Title, shall not be construed as requiring the City to maintain any of the improvements required to be installed in the subdivision.

- 6-4-11 Action by the Planning Commission.** The city planning commission shall, upon receiving the final plat, as soon as possible, but not more than thirty (30) days thereafter, consider the final plat, and, if the same is approved, shall submit its recommendation of approval to the city council together with a certified copy of its resolution showing the action of the city planning commission.
- 6-4-12 Action by the City Council.** Upon receipt of the certification by the city planning commission, the city council shall, within a reasonable time, either approve or disapprove the final plat.
1. In the event that said plat is disapproved by the city council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
  2. In the event that said plat is found to be acceptable and in accordance with this ordinance, the city council shall accept the same.
  3. The passage of a resolution by the city council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Muscatine County, Iowa, and shall file satisfactory evidence of such recording in the office of the city clerk before the city shall recognize the plat as being in full force and effect.
- 6-4-13 Improvements Required.** The subdivider shall install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the City Council to its satisfaction, and to the satisfaction of any engineer hired or appointed by the City Council to supervise the construction of the subdivision.
1.
    - a. **Streets and Alleys.** All streets and alleys within the platted area shall be dedicated for public use and shall be surfaced

with Portland cement concrete as the City Planning Commission or the City Council or its designated engineer may require. All major streets as defined in this Ordinance shall have a street right-of-way not less than 60 feet in width, and for such major streets the minimum width of street surface paved with Portland cement concrete pursuant to the specifications required by the City of Fruitland, shall be a minimum width of not less than 24 feet from street edge to street edge, or from back of curb to back of curb where curb and gutter is provided. For all minor streets as defined herein, the right-of-way shall be not less than 50 feet and the minimum width of such street surface shall be not less than 24 feet from street edge to street edge or from back of curb to back of curb where curb and gutter are provided.

When the Planning & Zoning Board reviews the plans for a new subdivision, they will require where there are corners in the street system, wide curves and a 6" cement curb to be installed at the corners. This will be a curb 6" high, 6" wide to a depth matching the street. It will be connected to the street with 1/2" reinforcing rod out 2' every 4'. Also, a 1/2" reinforcing rod will run through the curb. Ten foot on each end will be tapered down to street level. Curbs will be cut to be handicap assessable where sidewalks will meet the curb. This requirement will be made to discourage traffic from cutting the corner short and driving in the right of way.

The City will provide specifications for street construction and a list of representatives for construction observation and material testing. The developer will select a representative from the list and provide payment directly to such representative for their services.

- b. Adequate Street Entrances. The street plan for all subdivisions shall provide for adequate entrances and exits



into and from the subdivision. Cul-de-sacs and dead-end streets shall be discouraged. As a minimum requirement, all subdivisions containing more than twenty (20) lots, and all subdivisions so situated that future extensions of the subdivision could potentially add lots to an aggregate of said number of lots, shall provide a street with two entrances or exits from the subdivision for the first 20 lots, and an additional street with two entrances or exits from the subdivision for each additional 20 lots or part thereof. The street system shall provide for a street plan such that a loop road or equivalent layout is provided for access to and from the subdivision, consistent with the requirement of an entrance and exit for each 20 lots. The Planning and Zoning Commission and the City Council may require any modifications in the design of a proposed subdivision street system to provide for adequate traffic circulation and adequate access to the subdivision for fire and emergency services.

- c. Sidewalks. Sidewalks shall be installed, or caused to be installed, on both sides of all streets, places, and cul-de-sacs. The subdivider shall install sidewalks according to specifications prescribed by the City and set at the grade established by the City Council or its designated engineer. All sidewalks installed in subdivisions in the City of Fruitland shall be constructed 4" above the grade of the nearest outside edge of each adjacent street. No sidewalks built to a grade outside those tolerances will be acceptable in any subdivision. All sidewalk connecting adjacent lots shall be constructed at a grade such that there will be a smooth transition of sidewalk grade between lots.
- d. Sidewalk Width. The Fruitland Subdivision Ordinance is further amended to provide that all sidewalks shall be four (4) feet minimum in width, and wherever reference is made

to a different width, a 4-foot minimum width is hereby substituted.

- e. Time Limits. Developers will have three years from final plat approval to construct sidewalks on unsold lots and purchasers of lots will have one year from purchase or home construction whichever is shorter to construct sidewalks. The City will require a deposit with building permits for an amount set by the Council to be refunded upon completion and approved inspection of the sidewalk.
  - f. At any street intersection, sidewalks must be extended to the nearest edge of the street(s) to form a crosswalk. Street lights will be required to provide adequate lighting on streets in accordance with utility standards and the City will require decorative street lights in new subdivisions that conform to other subdivision lighting and is available from the utility providing service in the area. Street light design will have to be approved by the Planning & Zoning Board before the certificate is signed and sent to the Council.
2. Before the City Council will approve the final plat, the foregoing improvements shall be constructed and accepted by formal resolution of the City Council, said resolution being prepared by the subdivider and submitted with the final plat. Before passage of said resolution of acceptance, the City Planning and Zoning commission shall report that said improvements meet all city specifications and ordinances or other reasonable City requirements, and any agreements between the subdivider and the City. No building permits shall issue until said improvements meet all City specifications and ordinances or other reasonable requirements.
  3. The foregoing requirement of completion of said required improvements may be waived in whole or in part if the subdivider will post a performance bond with the City Council guaranteeing that any improvements not constructed will be completed within a

period of one year from final acceptance of the plat; but final acceptance of the plat will not constitute final acceptance by the City of any such improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in a subdivision until such improvements have been completed and accepted by the City Council.

**6-4-14 Penalties for Violation.** Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a simple misdemeanor. Any person who violated this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. In addition, the City of Fruitland shall be entitled to enforce provisions of this Ordinance by all other lawful means, including seeking injunctive relief, or by mandamus, or other appropriate lawful action necessary to prevent, correct, or abate any violation, or the City may elect to enforce this Ordinance by use of a Municipal Infractions Ordinance. Any violation of any provision of this Ordinance shall be deemed a municipal infraction.

**6-4-15 Amendments.** The City Council may, from time to time, on its own action or on petition, after public notice and hearings provided by law, and after report by the Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the City Council.

1. Procedures. Whenever any person, firm or corporation desires that any amendment, or change be made in this ordinance, including the text and/or map, as to any property covered by this ordinance, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property

and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty (50) percent of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of fifty (50) percent of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, and intervening streets and alleys not to be included in computing such two hundred fifty (250) feet, it shall be the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the City Clerk.

Prior to voting or holding a public hearing upon the petition as submitted, the City council shall refer the petition to the Zoning Commission requesting its comments and recommendations. The commission, after public hearing, shall advise the City Council of its recommendations and the vote thereon.

2. Protests. In case the proposed amendment, supplement or change be disapproved by the Zoning Commission, or a written protest be presented against a proposed change or repeal which is duly signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change or repeal, or by the owners of twenty (20) percent or more of the property which is located within two hundred feet (200) of the exterior boundaries of the property for which the change or repeal is proposed, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the Council. Whenever any petition for amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been denied by the City Council, then no new petition covering the same property or the same property and additional property shall be filed with or considered by the City Council until one (1) year shall have elapsed from the date of filing the first petition.

3. Filing Fees. Before any action shall be taken as provided in this Section, the owner or owners of the property proposed or recommended to be changed in the district regulations or district boundaries shall pay to the City Clerk the sum of one hundred dollars (\$100) to cover the costs of the procedure. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.
4. City Action. Nothing herein shall prevent the City of Fruitland from making changes to this Ordinance at any time on its own motion and pursuant to all procedures required by law.

**6-4-16 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.



## CHAPTER 5 BUILDING CODE

- 6-5-1 Purpose.
- 6-5-2 Preliminary Inspections.
- 6-5-3 Requirements During Construction.
- 6-5-4 Requirements for Multi-Family Dwellings.
- 6-5-5 Powers of City Building Inspector.
- 6-5-6 Building Inspector.
- 6-5-7 Severability.

**6-5-1 Purpose.** The purpose of this Ordinance is to adopt a building code and inspection requirement for the City of Fruitland with the intention that the specific inspection requirements set forth herein shall be met by all new construction, and that the designated city building inspector shall be allowed by all property owners to make the necessary inspections required herein to insure compliance with this ordinance.

The building inspector, who shall be appointed as provided in this Ordinance shall be permitted by the lot owner or contractor responsible for new construction to make the following inspections at the times indicated.

**6-5-2 Preliminary Inspections.** Inspections to be made before ground is broken on any new basement or new foundation:

1. The inspector shall confirm that all survey markers and lot pins defining the lot have been properly set by the surveyor. The property owner shall, at such owner's cost, cause any such marker or pin to be set and to be readily accessible to the city building inspector.
2. All set-backs required by any city ordinance shall be checked by the inspector and the building permit shall be certified by the

inspector to show that the new construction has been properly located on the building lot with regard to all setbacks and other lot-use requirements imposed by any Fruitland City Ordinance.

3. The inspector shall check that sidewalks are provided in the building plans, that the developer or property owner is constructing the sidewalks in the proper location, and that adequate financial provision has been made by deposit of sufficient funds with the City of Fruitland to insure full installation of completed sidewalks before the new construction is occupied.

### **6-5-3 Requirements During Construction.**

1. The building inspector shall have full access to new construction to confirm that all headers being installed conform to the chart marked "Illustration A" and included with this Ordinance. In lieu of substantial compliance with the Illustration A the building inspector may accept proof of certified composite headers or certified pre-built manufactured homes which substantially comply with this requirement regarding headers and new construction.
2. All new buildings within the City of Fruitland must meet the electrical code of the State of Iowa.
3. All plumbing must be trapped and vented for each drain.
  - a. It will be required to have one three-inch stack through the roof and stools must be vented within two feet.
4. All new construction shall be built with 5/8-inch sheet-rock adjacent to the garage, and if there is no ceiling in the garage, then such sheet-rock must be extended to the roof sheathing.
  - a. All sheet rock, in an area under fire code (firewall and ceiling), must have all seams taped and plastered.
5. All residential structures shall be supplied with one smoke detector per floor, including the basement. All smoke detectors shall be wired in series.



6. All driveways installed shall be provided with an expansion joint on each side of the sidewalk which is intersected by the driveway and with an expansion joint where any driveway intersects with a concrete street or where required by the city building inspector.
7. Stairway Headroom. The minimum headroom in all parts of a stairway shall not be less than 6' 8" measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.
8. Basements shall have at least one openable emergency escape and rescue opening in addition to a stairway. Openings provided shall have a sill height of not more than 44 inches above the floor. The emergency escape opening shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height shall be 24 inches and the minimum net clear opening width shall be 20 inches. Emergency escape and rescue openings shall be operational from inside of the room without the use of keys or tools. Said openings with a finished sill height below the adjacent ground elevation shall be provided with a window well. The minimum horizontal area of the window well shall be 9 square feet with a minimum horizontal projection and width of 36 inches. The area of the window well shall allow the emergency escape and rescue opening to be fully opened. Window wells with a vertical depth greater than 44 inches shall be equipped with a permanently affixed ladder or steps usable with the window in the fully opened position. The ladder or steps shall be permitted to encroach a maximum of 6 inches into the required dimensions of the window well. Bars, grills, covers, screens, or similar devices are permitted to be placed over emergency escape and rescue openings or window wells that serve such openings, provided the minimum net clear opening size complies with the above requirements and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening.

9. Roof trusses must be installed with braces and nailing in accordance with truss manufacturer's instructions. These instructions must be available for the inspector to review or his requirements will be mandatory.
10. Any accessory building of 900 sq. ft. or over, must have a concrete foundation of not less than 32".

**6-5-4 Requirements for Multi-Family Dwellings.** In addition to all requirements set forth in 6-5-2 and 6-5-3, the following requirements shall apply to all multi-family dwellings in the City of Fruitland. Multi-family dwellings are hereby defined as any two-family dwelling or multiple dwelling defined in 6-1-3 (9), the Fruitland Zoning Ordinance. The said requirements for multi-family dwellings are as follows:

1. All water and septic systems shall be installed as required by Ordinances enacted by Muscatine County, and the Iowa Department of Natural Resources. Each dwelling unit shall be provided with a separate water system.
2. All separation walls between dwelling units must be doubled-walled with 5/8" or 1/2" type x sheet rock, which must extend to the roof sheathing to meet standard building and fire codes.
3. Each dwelling unit must have its own independent heating and air conditioning unit and must be provided with a separate utility room.
4. The exterior design of all apartment buildings and multiple dwelling units shall be compatible with all surrounding units including the color, exterior finishing material, landscaping and exterior finishes for the dwelling unit.
5. Each dwelling unit must be provided with its own independent electrical service.
6. All two-story multi-family units shall be provided with a fire escape, fire ladder or a second exit from the upper floor to

standards to be required by the Fruitland Fire Chief as and following consultation with the Fruitland Planning and Zoning Commission.

Consistent with the above listed requirements, all multiple family units constructed in the City of Fruitland will also be governed by the requirements pertaining to single-family residences set forth in this Ordinance.

- 6-5-5 Powers of City Building Inspector.** Any new house, addition, or accessory building shall be inspected by the city building inspector before sheet-rock or insulation is installed. The city building inspector shall have the right to order that construction be stopped until the inspector has had adequate opportunity to make the inspections required in this Ordinance, or that such construction stop until all standards imposed by any Fruitland Ordinance are complied with fully.
- 6-5-6 Building Inspector.** The city building inspector shall be a person nominated by the Mayor and approved by majority vote of the City Council. The inspector shall continue to hold office until the Mayor or any City Council member requests that the position be reviewed. By resolution passed and approved by a majority of the City Council a building inspector's appointment may be terminated by 90-day notice to the inspector. Compensation for the building inspector shall be set by the City Council. The city building inspector shall be an individual with experience in housing construction.
- 6-5-7 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.



## CHAPTER 6

### CERTIFICATE OF OCCUPANCY

6-6-1 Purpose.

6-6-2 Certificate of Occupancy.

6-6-3 Severability.

**6-6-1 Purpose.** The purpose of this Ordinance shall be to require that certificates of occupancy be issued for any building to be used or occupied in the City of Fruitland, all pursuant to the requirements set forth in this Ordinance.

**6-6-2 Certificate of Occupancy.** No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the City Clerk, stating that the building and use comply with the provisions of this ordinance.

No change of use shall be made in any building or part thereof now or hereafter erected or structurally altered, without a permit being issued therefore by the City Clerk. No permit shall be issued to make a change unless the changes are in conformity with provisions of this ordinance.

Nothing in this part shall prevent the continuance of a non-conforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property.

Applications for Certificates of Occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the City Clerk, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

No permit for excavation for, or the erection or alteration of any building shall be issued before the application has been made for a Certificate of Occupancy, and no building or premises shall be occupied until that certificate is issued. A temporary Certificate of Occupancy may be issued by the City Clerk for a period not exceeding six months during alterations for partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

A Certificate of Occupancy shall be required of all non-conforming uses. Application for a certificate for non-conforming uses shall be filed with the City Clerk within twelve (12) months from the effective date of this Ordinance, accompanied by affidavits of proof that such non-conforming use was not established in violation of previous ordinances.

No Certificate of Occupancy shall be issued until the City Clerk has been advised by the City Building Inspector that all inspections required by Title 6 Chapter 5 or any other applicable Fruitland City Ordinance have been completed, that the property involved meets the requirements of all the inspections, and that if any alterations or improvements have been required by the City Building Inspector, those improvements have in fact been fully completed to the satisfaction of the City Building Inspector before a Certificate of Occupancy shall be issued. In addition, no Certificate of Occupancy shall be granted until public sidewalks have been completed and installed on the property being occupied, as is required in Title 6, Chapter 8. For residential construction, a completed sidewalk must access at least one door of the residence before a Certificate of Occupancy shall be issued.

Also prior to a Certificate of Occupancy being issued, house numbers at least four inches in height shall be installed on any new residence, and those house numbers shall be visible from the street as required by Title 6, Chapter 9.

Before the issuance of any Certificate of Occupancy all external siding and external trim shall be completed, at least a kitchen sink and one bathroom shall be in full working order. No Certificate of Occupancy shall be granted for the purpose of allowing the occupancy of a basement only and any Certificate of Occupancy previously issued may be revoked if it comes to the attention of the City Clerk or Mayor that a basement is being occupied as an additional dwelling unit in excess of the occupancy allowed for single family dwelling units in the City of Fruitland.

- 6-6-3 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.





## CHAPTER 7 BUILDING PERMITS

- 6-7-1 Purpose.
- 6-7-2 Structure Defined.
- 6-7-3 Permit Required.
- 6-7-4 Application.
- 6-7-5 Fees.
- 6-7-6 Plans Required.
- 6-7-7 Location of Structure.
- 6-7-8 Authority of City Council.
- 6-7-9 Permit Issued.
- 6-7-10 Limitations on Permit.

- 6-7-1 **Purpose.** The purpose of this Chapter is to provide the City Council notice of the type of structure, the kind of construction, the location of any structure to be erected or added within the corporation, the location of any structure on any specific lot within the corporation and to provide reasonable rules for the erection, reconstruction, altering and repair of all kinds of structures.
- 6-7-2 **Structure Defined.** Anything constructed or erected with a fixed location on the ground that protrudes above the ground or surface level of a parcel of property. Structures include, but are not limited to, buildings, walls, fences, decks, billboards, aboveground storage tanks, and similar uses.
- 6-7-3 **Permit Required.** No structure shall be erected, reconstructed, altered or added to without first securing a permit from the City Council.

**6-7-4 Application.** All requests for a building permit shall be submitted to the City Clerk on forms supplied by the City and accompanied with the appropriate fee for such permit.

1. A building permit will be in effect for a period of one year. If the work allowed by the permit is not complete in one year, an extension can be issued for an additional six months at a cost of  $\frac{1}{2}$  the original permit fee. If the project is not complete at the end of a year and a half, a new building permit will have to be applied for as if it were an entirely new project.
2. Before any building can be occupied or otherwise used; an occupancy permit must be granted by the City. The occupancy permit will establish that sidewalks and/or any required improvements are complete, electrical service to the building has been approved by the utility if applicable, and any future building codes are complied with.

**6-7-5 Fees.** A fee for each building permit shall be paid to the City Clerk as set forth in the Fruitland Building Permit Fees Valuation. The determination of value or valuation under any of the provisions of this Ordinance shall be made by the City Clerk. The valuation to be used in computing the permit shall be the total value of all construction work for which the permit is used, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent work or equipment.

**6-7-6 Plans Required.** Plans and specifications of any proposed structure shall be filed with the application for the permit.

**6-7-7 Location of Structure.** A complete description and drawing of the real estate involved and the location of the structure on the real estate shall be filed with the application. The perimeter of the structure shall be staked prior to submitting an application.

- 6-7-8 Authority of City Council.** The City Council shall have full authority to accept or reject any plans and specifications submitted.
- 6-7-9 Permit Issued.** Permits shall be issued by the City Clerk to be retained in the City records.
- 6-7-10 Limitations on Permit.** In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect. All permits shall expire and be void twelve (12) months after issuance by the City Clerk. If construction is not initiated a new application and fee must be submitted.



## CHAPTER 8 SIDEWALK REGULATIONS

- 6-8-1 Purpose.
- 6-8-2 Definitions.
- 6-8-3 Cleaning Snow, Ice, and Accumulations.
- 6-8-4 Maintenance Responsibility.
- 6-8-5 Liability of Abutting Owner.
- 6-8-6 Ordering Sidewalk Improvements.
- 6-8-7 Repairing defective sidewalks.
- 6-8-8 Notice of Inability to Repair or Barricade.
- 6-8-9 Standard Sidewalk Specifications.
- 6-8-10 Permits for Construction or Removal.
- 6-8-11 Failure to Obtain Permit Remedies.
- 6-8-12 Inspection and Approval.
- 6-8-13 Barricades and Warning Lights.
- 6-8-14 Interference with Sidewalk Improvements.
- 6-8-15 Special Assessments for Construction and Repair.
- 6-8-16 Notice of Assessment for Repair or Cleaning Costs.
- 6-8-17 Hearing and Assessment.
- 6-8-18 Billing and Certifying to County.
- 6-8-19 ADAAG Compliance.

**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.
  - i. a sidewalk that has settled and adjacent soil has built up higher than the sidewalk or drainage is otherwise impeded to the extent that water accumulates on the sidewalk to a depth exceeding one-half ( $1/2$ ) inch over an area of two (2) square feet or more.
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 forty-eight (48) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed after attempting to notify the owner by personal service. 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, may be assessed against the property as taxes if payment arrangements cannot be made within 30 days. 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 may 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 may be assessed to the property as taxes if payment arrangements cannot be made within 30 days. 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 City Inspector.

4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.
7. All elevations of sidewalks are to be established by the City Council with assistance from the City Inspector 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 Inspector, 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 Inspector. All requests for such permits shall be submitted to the City Clerk on forms supplied by the City and accompanied with the appropriate fee for such permit and the City Clerk shall preserve in the office a copy thereof. The permit shall be valid for one year from the date of the permit and may be extended for 6 months for half of the initial fee. All permits for sidewalk improvements not ordered by 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 or other City Official, 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 City Inspector 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 City Inspector shall indicate this on the permit and the permit application.
- 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 may certify any unpaid amounts to the County Treasurer if payment arrangements have not been made. 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. The City may also assess a fee for assessing the amount to the County Treasurer.

(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).



## CHAPTER 9 NUMBERING OF BUILDINGS

- 6-9-1 Buildings to be Numbered.
- 6-9-2 Numbering System.
- 6-9-3 Mandatory Numbering.
- 6-9-4 Type of Numbers, Size.
- 6-9-5 Numbers Obtained from City Council or its Designee.
- 6-9-6 Enforcement.

- 6-9-1 **Buildings to be Numbered.** All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.
- 6-9-2 **Numbering System.** Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.
- 6-9-3 **Mandatory Numbering.** The placing of numbers is mandatory effective 6th day of April, 1983.
- 6-9-4 **Type of Numbers, Size.** The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than four inches in height. If painted, such numbers shall be of durable and legible characters, and no numbering done or attempted to be done in numbers or figures of a less size than prescribed in this Section shall be regarded as complying with the provisions of this Ordinance.

- 6-9-5 Numbers Obtained from City Council or its Designee.** The owners of every building, residence, or store erected within the Corporate Limits of the City shall within ten days after such building, residence, or store shall have been used or occupied, or shall have been completed for use or occupancy, obtain from the City Council or its designee the number of such building, residence, or store.
- 6-9-6 Enforcement.** Any person who shall suffer or permit his building, residence, or store to remain for the space of twenty (20) days without a number placed conspicuously thereon, as provided in this Ordinance, shall be deemed guilty of a simple misdemeanor, and upon conviction thereof shall be subject to imprisonment not exceeding thirty days or a fine not exceeding \$100.00.



## CHAPTER 10

### NATURAL GAS FRANCHISE

- 6-10-1 Purpose.
- 6-10-2 Facilities.
- 6-10-3 Service Standards.
- 6-10-4 Franchise Fee.
- 6-10-5 Terms of Franchise.
- 6-10-6 Severability.
- 6-10-7 Agreement.

**6-10-1 Purpose.** There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the "Company," its successors and assigns, the right, privilege and non-exclusive franchise for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of this Ordinance, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

## 6-10-2 Facilities.

1. Placement of Mains and Pipes. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City. The Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.
2. Excavations. In making any excavations in any street, alley, or public place, the Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.
3. Existing Facilities. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right of way that have been relocated at Company expense at the direction of the City during

the previous ten years, the reasonable costs of such relocation will be paid by the City.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

4. Easements. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has gas facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

**6-10-3 Service Standards.** Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

**6-10-4 Franchise Fee.** There is hereby imposed a franchise fee of zero percent (0%) upon the gross revenue generated from sales of natural gas by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

**6-10-5 Terms of Franchise.** The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty five (25) years from and after its written acceptance by the Company. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

**6-10-6 Severability.** If any section or provision of this Title 6 Chapter 10 is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this Title 6 Chapter 10 which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable.

**6-10-7 Agreement.** This Ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact or maintain any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.



## CHAPTER 11

### OUTDOOR FURNACES

- 6-11-1 Purpose.
- 6-11-2 Definitions.
- 6-11-3 Existing Outdoor Furnaces.
- 6-11-4 Permit Applications.
- 6-11-5 Enforcement and Violations.

**6-11-1 Purpose.** The Fruitland City Council finds that smoke, odors and emissions caused by the use of outdoor furnaces can be detrimental to the public health and deprive residents of the enjoyment of their property. The purpose of this Chapter is to ban the installation and construction of outdoor furnaces and establish regulations and restrictions regarding the existing outdoor furnaces within the City of Fruitland, to promote the public health, comfort, safety and welfare of the public.

**6-11-2 Definitions.** For the purposes of this Chapter, the following definitions apply:

1. "Existing Outdoor Furnaces" means any outdoor furnace in existence as of October 1, 2019.
2. "Outdoor Furnace" means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of burning fuel to produce heat or energy used in whole or in part as a heating system to provide heat and/or hot water to any structure.
3. "Stack" or "Chimney" means any vertical structure enclosing a flue or flues that carry off smoke, exhaust and other emissions from an outdoor furnace.

**6-11-3 Existing Outdoor Furnaces.** Any outdoor furnace in existence on October 1, 2019, shall be permitted to remain, subject to the following requirements:

1. The owner of any outdoor furnace in existence as of October 1, 2019, shall apply for and receive an outdoor furnace permit from the City Clerk by December 31, 2019. If a permit application is not received for an existing outdoor furnace by December 31, 2019, the outdoor furnace shall be in violation of this ordinance and must be removed.
2. Outdoor furnaces may not be operated between April 15 and October 15 of each year.
3. All outdoor furnaces shall be installed, operated and maintained in accordance with the manufacturer's specifications and instructions.
4. All outdoor furnaces shall be laboratory tested and listed to appropriate safety standards, such as UL (Underwriters Laboratories), ANSI (American National Standards Institute) or other applicable safety standards. Outdoor furnaces shall not be located less than thirty (30) feet from the nearest lot line. Outdoor furnaces shall not be located within one hundred (100) feet from any residence not being served by the furnace.
5. Only natural, untreated wood or the manufacturer's listed fuels may be burned in any outdoor furnace. Burning any other materials in the furnace is prohibited. Trash, plastics, gasoline, rubber, naphtha, household garbage, particle board, railroad ties, pressure treated wood or other materials treated with petroleum products, leaves, paper products and cardboard are prohibited.
6. Petroleum products or chemicals shall not be used to start an outdoor furnace.
7. Every outdoor furnace shall be equipped with a stack or chimney. All stacks and chimneys must be constructed as to withstand high



winds and other weather elements. In no event shall a stack or chimney extend less than twenty-five (25) feet above the ground.

8. In order to obtain a permit for an existing outdoor furnace, the furnace must be in compliance with all of the provisions of this Chapter and any other applicable county, state or federal regulations. All provisions shall continue to apply to an outdoor furnace after a permit has been issued. No existing outdoor furnace may be moved or replaced by a new outdoor furnace.
9. All existing outdoor furnaces shall be inspected each year prior to operation.

#### **6-11-4 Permit Applications.**

1. An application for an outdoor furnace permit shall be made to the City Clerk on a form provided by the City and shall contain and/or have attached thereto the following information:
  - a. Name, address, daytime and evening telephone number of the applicant.
  - b. Address of the lot upon which the outdoor furnace is located.
  - c. A site plan indicating the location of the outdoor furnace in relation to all lot lines.
  - d. The name of the manufacturer and model number of the outdoor furnace, together with a copy of the manufacturer's installation, operation and maintenance instructions.
  - e. A description of the stack or chimney proposed to be used in connection with the outdoor furnace, including its height and a description of any guy wires or other devices to be used to support or stabilize the stack.

- f. Such other information as the City Clerk shall require to show full compliance with this Chapter and other ordinances of the City.
2. Permit Fee. The applicant shall pay an application fee for the construction of new outdoor furnaces for the administration and inspection of the outdoor furnace, which shall be deposited in the City's general fund. The application fee shall be set by the City Council resolution.

Exception – Permit fee does not apply to outdoor furnaces existing prior to January 1, 2019.

3. Applicant. The applicant for an outdoor furnace permit shall in all cases be the owner of the lot on which the outdoor furnace is to be located.
4. The City Clerk shall issue an outdoor furnace permit or deny an outdoor furnace permit application within thirty (30) days of the receipt of a fully completed application. The City Clerk shall deny any application which is not filed in conformity with this section or which proposes an outdoor furnace which would be contrary to any provisions of the ordinances of the City of Fruitland. Any denial of an application shall provide, in writing, the reasons for such denial. If an application is denied, the permit fee shall be refunded to the applicant. A denial of an outdoor furnace permit application may be appealed, by the applicant, to the Fruitland City Council. The appeal must be in writing and filed in the office of the City Clerk within twenty (20) calendar days after the date of the denial of the permit. The City Council will hold a hearing on the appeal within forty-five (45) days of the date that the appeal is filed with the City Clerk's office.

#### **6-11-5 Enforcement and Violations.**

1. Any person who violates any of the provisions of this Chapter or any of the terms and conditions of any permit, regulation or lawful order of the City made under the authority of this Chapter shall be

guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

2. If any outdoor furnace regulated under this Chapter is installed, constructed, moved, maintained or used in violation of this Chapter or in violation of the terms and conditions issued or made under the authority of this Chapter, a simple misdemeanor citation and/or a municipal infraction citation may be issued to remedy and/or abate the violation.



## CHAPTER 12

### UTILITIES – REFUSE COLLECTIONS

- 6-12-1 Definitions.
- 6-12-2 Governing Ordinances and Statutes.
- 6-12-3 Duty to Provide Cans.
- 6-12-4 Administration.
- 6-12-5 Storage.
- 6-12-6 Collections.
- 6-12-7 Refuse Other Than Garbage.
- 6-12-8 Anti-Scavenging.
- 6-12-9 Fees and Charges.
- 6-12-10 Certification of Unpaid Fees and Charges.
- 6-12-11 Penalties.

#### **6-12-1 Definitions.**

1. "Appliances" includes all machines common to household use, and shall include refrigerators, stoves, microwave ovens, dishwashers, clothes washers and dryers, water heaters, furnaces, air conditioners, dehumidifiers, television sets, stereo systems, lawn mowers, vacuum cleaners, radios, and any other device used in the home that contains either a gasoline engine or electric motor.
2. "Approved landfill" means a site approved by the Department of Natural Resources of the State of Iowa, and approved by the City of Fruitland, as a landfill for the deposit of solid waste. This landfill site shall be the Muscatine County Landfill.
3. "Building waste materials" includes waste material from the construction, deconstruction, or demolition of residential,

commercial, industrial, or farm buildings or structures, except brick and foundation material.

4. "Bulky rubbish" includes non-putrescible refuse consisting of combustible or noncombustible waste materials that are either too large or too heavy to be safely and conveniently loaded into solid waste transportation vehicles by solid waste collectors.
5. "Can" means a container for the storage of garbage or rubbish, which is:
  - a. Provided with a handle and tight-fitting cover
  - b. Made of non-corrosive material
  - c. Watertight
6. "Contractor" means the person, firm, association, corporation, partnership, or other entity with whom the City contracts for the collection of and transportation of solid waste.
7. "Commercial solid waste" includes solid waste resulting from the operation of any commercial, industrial, or agricultural business located upon any premises including premises used in whole or in part as a dwelling.
8. "Domestic refuse" means garbage, ashes, and miscellaneous rubbish originating from a building or buildings containing exclusively dwelling units or accessory uses to a dwelling unit and shall be divided into the following three (3) classes:
  - a. Class I-Domestic (single family and multi-family up to five (5) units) refuse permitted to be stored in trash cans.
  - b. Class II-Domestic (six (6) or more dwelling units) and commercial refuse permitted to be stored in trash cans.
  - c. Class III-Domestic refuse consisting entirely of miscellaneous rubbish.

9. "Dwelling" means a building that is wholly or primarily used or residential purposes, including such activities as sleeping, cooking, or eating meals.
10. "Dwelling unit" means any room or group of rooms located within a dwelling and forming a single unit possessing facilities that are used or intended to be used for living, sleeping, cooking, or eating meals.
11. "Garbage" includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.
12. "Glass" means any of the large class of materials with highly variable mechanical and optical properties that solidify from the molten state without crystallization, that are typically based of silicon dioxide, boric oxide, aluminum oxide, or phosphorous pentoxide, that are generally transparent or translucent that are formed into containers in which food, beverages, liquids, powders, and other materials are stored or preserved. Any objects generally considered glass by the general population shall be included in this definition.
13. "Hazardous waste" means all pathological and explosive wastes, pesticides, toxic radioactive materials and those wastes included by the definition in the Code of Iowa, the regulations of the Department of Natural Resources, and any federal law or regulation. Also included in this definition are any cans or containers of any kind that have been used to store or transport an item defined as a hazardous waste.
14. "Litter" means discarding, depositing or dumping of garbage, refuse, rubbish, or any other type of solid waste materials in the City in any manner or location other than as designated herein for collection.
15. "Operator" means any person, firm, corporation, association, partnership, or other entity, including any agent, fiduciary or

representative thereof, who occupies, possesses, uses, or controls property within the City.

16. "Owner" means any person, firm, corporation, association, partnership, or other entity possessing right, title and interest to any real or personal property, whether it be legal, equitable, by contract, by sale, or by deed.
17. "Paper" means material made of cellulose pulp, derived mainly from wood, rags, and certain grasses, processed into flexible leaves or rolls by deposit from an aqueous suspension, and used chiefly for writing, printing, drawing, wrapping, and covering walls. Any object generally considered paper by the general population shall be included in this definition.
18. "Plastic" means any of various complex organic compounds produced by polymerization, capable of being molded, extruded, or cased into various shapes and films or drawn into filaments used as textile fibers and lines and ropes, and shall include such materials formed into containers for the storage or preservation of food, beverages, liquids, powders, or other materials. Any object generally considered plastic by the general population shall be included in this definition.
19. "Processing" means bailing, compacting, composting, incinerating, recycling, separating, and shredding, together with all other activities whereby solid waste is either modified or its quantity is reduced to facilitate disposal.
20. "Recycling" means any process by which solid waste is collected, separated, processed, and returned to use in the form of raw materials or products. Recycling shall include the composting of yard waste, but does not necessarily involve energy recovery.
21. "Receivables" includes any solid waste that is capable of and designated for recycling by the City.



22. "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.
23. "Residential solid waste" means solid waste resulting from the maintenance and operation of residences.
24. "Responsible party" means any person, firm, corporation, association, partnership or other entity who is issued an account for or is furnished sewer or solid waste service in the City. This shall include all persons of legal age occupying a residence that is furnished sewer or solid waste service, and if more than one person is listed on an account shall include all persons listed. The owner of a residence shall also be considered a responsible party of the premises.
25. "Rubbish" includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.
26. "Solid waste" includes any unwanted or discarded material in a solid or semisolid state, including but not limited to garbage, ashes, refuse, yard waste, appliances, special waste, demolition and construction wastes, whether from agricultural, residential, commercial or industrial operations.
27. "Solid waste removal" means the process of permanently removing solid waste from the City of Fruitland.
28. "Special waste" includes waste that is required by state or federal regulation to be handled or processed in a special manner prior to disposal.
29. "Storage" means the keeping and maintaining of waste material prior to collection and removal by the contractor.
30. "Transportation" means the conveying of solid waste from the place of collection or processing to a landfill or other disposal site.

31. "Yard waste" includes mowed grass, leaves, tree stumps, cutting from trees or shrubs, the fallen branches or trunks of trees or shrubs, weeds, discarded flowers, garden plants, ground cover, or planting and debris from lawns or gardens.

**6-12-2 Governing Ordinances and Statutes.** Provisions of this chapter shall govern the management of solid waste collection and disposal within the City of Fruitland, Iowa. In the event that any provision of this chapter is in conflict with any federal, state, or county statute or regulation, the provision that is the most restrictive shall be applied unless to do so would be contrary to state law.

**6-12-3 Duty to Provide Cans.** The Muscatine Transfer Station shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be in a position readily accessible to the collector.

It shall be the duty of the owner of each household residing in a building arranged for more than one family unit to provide proper cans for garbage and rubbish.

**6-12-4 Administration.** Administration of this chapter shall be by the City Clerk, or such employee designated by the City Clerk.

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

**6-12-5 Storage.** All garbage must be drained. All rubbish shall be placed in a can except as otherwise provided. Solid waste containers, including disposable containers and recyclable cans, shall be kept on the private property of the resident, owner, or occupant prior to the day collection is to take place. No solid waste containers, whether disposable or not, shall be kept on public property, except for solid waste containers owned by the City.

**6-12-6 Collections.**

1. All solid waste shall be collected at least once each week and from public establishments as frequently as the City Council may require. Solid waste that shall be collected as a part of regular residential collection shall include refuse, garbage, recyclable waste, and yard waste. Appliances, tires, and bulky rubbish shall be collected only by making prior arrangements with the contractor, and shall be paid for by the responsible party directly to the contractor. The City will not be responsible for the collection of the following solid waste from any dwelling or residence: hazardous waste, building waste materials, commercial solid waste, special waste, lead acid batteries, waste oil, waste gasoline, any substance or material determined to be hazardous or otherwise unacceptable for collection.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

- a. All residential solid waste containers, including yard waste containers, bundled tree limbs and brush, and recycling waste cans, shall be placed for collection at the curb or property line adjacent to the city street. Containers shall be placed at the curb or property line prior to 5 o'clock A.M. on the morning of the regularly scheduled collection day. Containers may be placed at the curb or property line no earlier than 5 o'clock p.m. on the day preceding the regularly scheduled collection day. All solid waste containers shall be removed from the curb or property line on the same day that collections occur.
  - b. The contractor is authorized to refuse collection of solid waste that is not placed at the curb in compliance with this chapter
2. Commercial premises: The owner of commercial premises shall be responsible for the collection and transportation of all of the

commercial solid wastes resulting from any operation on such premises.

3. Government premises: Governmental entities that own or lease premises in the city shall be responsible for the collection and transportation of all of the commercial solid wastes resulting from any operation on such premises.
4. All recyclable waste to be collected by the contractor shall be stored in a recycling can provided by the contractor for each dwelling unit. The responsible party of the dwelling unit shall be responsible for the upkeep and maintenance of the residential recycling can and if a can is damaged, normal wear and tear excluded, will be liable to the contractor for the cost of replacement. All recyclable waste shall be deposited in the appropriate receptacle in the residential recycling can. Periodically, when residential recycling cans are deemed no longer satisfactory for use, said cans will be replaced at no charge to the responsible party.
5. All yard waste, except tree and brush limbs and stumps, to be collected by the contractor shall be sorted in an approved disposable solid waste bag available for purchase at such locations and prices as are determined by the contractor.

**6-12-7 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.

**6-12-8 Anti-Scavenging.** It shall be a violation of this Code for any person to sort through, scavenge, or remove any garbage, waste, refuse, rubbish, or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

**6-12-9 Fees and Charges.** Regular fees and charges for solid waste collection shall be set by resolution of the City Council and shall be billed monthly. The statement shall set out separately the fees and charges for each service.

The resident, owner, operator, and occupant shall be liable for the fees and charges for solid waste collection as shown on the statement, and the City may elect to collect the fees and charges from any one or all of them. If a dwelling contains more than one dwelling unit within, up to and including three (3) units, the statement shall contain a separate fee and charge for each dwelling unit at the rate set by the City Council for a residence. Unoccupied dwellings will be charged for solid waste management at the same rate as those occupied.

**6-12-10 Certification of Unpaid Fees and Charges.** In the event a fee or charge for solid waste management shall become delinquent, the City Clerk may certify said delinquent fees and charges to the County Treasurer pursuant to state law for collection with and in the same manner as real estate taxes. If certifying fees to the County Treasurer to be assessed on the property is not an option, the City may take further collection measures as allowed by law.

Certification of a lien under this section shall be subject to the provisions of Section 384.84 of the Code of Iowa. At any time after a City of Fruitland bill for solid waste disposal under this ordinance is delinquent by ten (10) days or more, the City Clerk may elect to give notice to the account holder by sending a written notice to said account holder by ordinary or certified mail, informing them of the nature of the delinquency and affording them the opportunity to make arrangements to pay. The Notice shall provide the opportunity to make arrangements

to pay within fourteen (14) days after the day of the mailing. All charges under this ordinance not paid by the account holder within thirty (30) days of the delinquency notice as required by Section 384.84 of the Code of Iowa are a lien upon the property or premises served by the contractor, and may be certified to the County Treasurer only following prior written notice of intent to certify lien being given to the account holder of the delinquent account. In the event that a lien is certified, the lien shall include a charge of five dollars (\$5.00) to cover the administrative expenses of the City in certifying and filing said lien. If the account holder is a tenant, and if the owner or landlord of the property has made a written request of notice, the notice shall also be given to the owner or landlord. The notice of intent to certify the lien shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to the certification of the lien to the County Treasurer.

**6-12-11 Penalties.** Any person, firm, corporation, association, partnership, other entity, resident, owner, operator, or occupant who violates any of the provisions in this chapter shall be guilty of a general penalty per Code 1-3-1.

## CHAPTER 13 UTILITIES – CABLE FRANCHISE

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**6-13-1 Definitions.** For use in this ordinance, the following terms are defined as follows:

1. "Cable Service" includes the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or any other programming service.
2. "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.
3. "FCC" means the Federal Communications Commission.
4. "Grantee" means Muscatine Power & Water or the lawful successor, transferee, or assignee thereof.
5. "Gross Annual Revenues" means any revenue derived directly by Grantee, from or in connection with the provision of Cable Service including, but not limited to, basic Subscriber service fees, pay channel service fees, installation and reconnection fees, leased channel fees, converter and remote control rentals, studio rentals, production equipment rentals, and local advertising revenues. The term does not include any taxes on services provided by Grantee and imposed directly upon any Subscriber or user by the state, City, or other governmental unit and collected by Grantee on behalf of said unit.
6. "Normal Business Hours" as applied to Grantee shall mean those hours during which similar businesses in the City are open to serve customers.

7. "Normal Operating Conditions" means those service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.
8. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
9. "Subscriber" means any person, firm, corporation, or entity receiving reception service from Grantee.

**6-13-2 Terms of Franchise.** The nonexclusive franchise and the rights, privileges, and authority thereby granted shall take effect and be in force from and after final passage thereof and written acceptance of the terms and conditions hereof by the grantee, and shall continue in force and effect to a date five (5) years from the effective date of the ordinance.

**6-13-3 Execution of Franchise Agreement.** Within sixty (60) days after the date of passage of the Ordinance, the Grantee shall execute an acceptance letter whereby the Grantee will promise to comply with and abide by the provisions, terms, and conditions of the ordinance, and all other applicable laws of the state and federal governments and all ordinances of the City passed pursuant to its lawful police powers.

**6-13-4 Nature of Installation Requirements.**

1. There is hereby granted by the City to the Grantee the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over, and under the streets, alleys, public ways, and public places now laid out or dedicated, and all extensions thereof and additions thereto, in the City, poles, wires, cables, underground conduits, manholes, and other television conductors

and fixtures necessary for the maintenance and operation in the City of a Cable System.

2. The right to use and occupy said streets, alleys, public ways, and places for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways, and places to any person at any time during the term of this nonexclusive franchise.
3. In the event the City enters into a Franchise, permit, license, authorization, or other agreement of any kind with any other Person or entity other than Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.
4. To ensure prompt, proper, and adequate extension of the plant and the service and maintenance thereof at the highest practicable standard of efficiency, the City hereby requires an extension of Subscriber service to all areas of the City where there are at least 50 homes per mile within 125 feet of the Cable System.

**6-13-5 Territorial Area.** This franchise relates to the present territorial limits of and within the City and to any area henceforth added thereto during the terms of this franchise.

**6-13-6 Compliance with Applicable Laws and Ordinances.**

1. Any franchise granted hereunder shall be subject to all applicable provisions of federal and state law, and any mutually agreed upon amendments thereto.
2. The grantee shall, at all times during the life of this franchise, be subject to all lawful police powers of the City.

3. The grantee shall conform to all zoning and platting requirements of the City prior to the commencement of any and all construction work.
4. Any and all pavement cuts must be approved by the City Council or its designee prior to the commencement of construction and shall be shown on the plans submitted to the City Council.

**6-13-7 Insurance and Indemnification.** The grantee shall provide insurance coverage, naming the City as an additional insured, to insure against any claim or demand resulting from the construction, operation, and maintenance of the Cable System by the Grantee in the City. The City shall notify the Grantee within ten (10) days after any claim is made and otherwise comply with the terms of the insurance policy with request to notice of a claim. Grantee shall maintain in force during the term of this franchise insurance in an amount not less than: \$1,000,000 for any one (1) person, \$3,000,000 for any one (1) accident, and \$1,000,000 for property damage, duly issued by an insurance company(ies) authorized to conduct business in the State of Iowa. The grantee shall assume the defense and cost of defense, including but not limited to court cost, attorney fees and expert witness fees of the City for any claims made against the City resulting from the action or inaction of Grantee regarding this franchise.

**6-13-8 Compliance with FCC Standards.**

1. The grantee shall comply with all applicable technical standards adopted by FCC as related to cable television.
2. The grantee shall establish a good electrical ground for all Cable Service at each subscriber location to minimize damage occurring to television sets or other equipment belonging to each subscriber and resulting from the lack of inadequate electrical ground.

**6-13-9 Operations and Maintenance of System.** Grantee maintains an office in the City of Muscatine, which is open during normal business hours, has a listed local telephone number, and is so operated that complaints and requests for repairs or adjustments may be received at any time.

**6-13-10 Subscriber Rates and Charges.**

1. The charges made to subscribers for services shall be established from time to time by the grantee.
2. The grantee may require Subscribers to pay for Cable Service one (1) month in advance.

**6-13-11 Emergency Use of Facilities.** The grantee shall, in the case of any emergency or disaster, allow reasonable access to one of its community programming channels without charge to the City. The system is engineered to provide an audio alert system to all authorized officials from the City of Muscatine to automatically override the audio signal on all channels and transmit and report emergency information. Except to the extent expressly prohibited by law, the City shall hold the grantee, its employees, officers, and assigns, harmless from any and all claims arising out of the emergency use of its facilities by the City, including but not limited to, reasonable attorneys' fees and costs.

**6-13-12 Consumer Service Standards.** Nothing in this ordinance shall be construed to prevent or prohibit: (i) the City and grantee from agreeing to exceed the customer service standards set forth herein; and (ii) the establishment or enforcement of any state or municipal law or regulation concerning customer service or consumer protection that imposes customer service or consumer protection requirements that exceed those herein or address matters not addressed herein. The grantee shall maintain an office in Muscatine to provide the necessary facilities, equipment, and personnel to comply with the following consumer standards under normal conditions of operation:

1. **Service Standards.** The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled service interruptions, insofar

as possible, shall occur during periods of minimum use of the System. A written log or an equivalent stored in computer memory and capable of access and reproduction shall be maintained for all service interruptions and requests for Cable Service as required.

2. Telephone Lines. Local toll-free and collect call telephone line capacity shall be made available by Grantee to Subscribers twenty-four (24) hours per day, seven (7) days per week, including holidays. The grantee shall use best efforts under normal operating conditions during normal business hours to ensure that a minimum average of ninety percent (90%) of all callers (measured on a quarterly basis) for service will not be required to wait more than thirty (30) seconds before being connected to a trained customer service representative, and shall receive a busy signal less than three percent (3%) of the time (measured on a quarterly basis). If the call needs to be transferred, the transfer time shall not exceed thirty (30) seconds. Inquiries received after normal business hours may be answered by a service or an automated response system, and such calls must be responded to by a trained company representative on the next business day.
3. Local Office. The local office shall be a business and service office, conveniently located within the City of Muscatine, open during normal business hours, and adequately staffed to accept subscriber payments and respond to service requests and complaints.
4. Installation Staff. An installation staff shall install service to any Subscriber located up to 125 feet from the existing distribution system within seven (7) days after receipt of a request. This standard shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.
5. Installation, Outages, and Service Call Scheduling. The grantee shall schedule, either at a specific time, or, at maximum, within a specified four (4)-hour time period, all appointments with Subscribers for installation or service. The grantee may not cancel

an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment. If a grantee representative is running late for an appointment with a subscriber and is not able to keep the appointment as scheduled, the subscriber will be contacted by the grantee. The appointment will be rescheduled, as necessary, at a time which is convenient for the subscriber. These standards shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.

6. Repair Standards. The grantee shall maintain a repair force of technicians who, under normal operating conditions, are capable of responding to subscriber requests for service within the following time frames:
  - a. System Service Interruption: Under normal operating conditions, within two (2) hours, including weekends, of receiving subscriber calls which by number identify a system service interruption of sound or picture on one (1) or more channels, affecting all the subscribers of the system.
  - b. Isolated Service Interruption: Within twenty-four (24) hours, including weekends, of receiving requests for service identifying an isolated service interruption (less than 2% of subscribers) of sound or picture for one (1) or more channels. This standard shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.
  - c. Inferior Reception Quality: Within forty-eight (48) hours, including weekends, of receiving a request for service identifying a problem concerning picture or sound quality. The grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being home when the technician arrives, response shall be deemed to have taken place if the technician leaves written notification of arrival.

7. Subscriber Credit for Service Interruption. Upon service interruption of a subscriber's cable service, the following shall apply:
  - a. For service interruptions of over twenty-four (24) hours and up to fourteen (14) days, the grantee shall provide, at a subscriber's request, a credit of one-thirtieth (1/30) of one month's fees for affected service for each twenty-four (24)-hour period service is interrupted for twenty-four (24) or more hours for all affected subscribers.
  - b. For interruptions of fourteen (14) days or more in one (1) month, the grantee shall provide, at a subscriber's request, a full month's credit for affected services for all affected subscribers.

**6-13-13 Record of Complaints by Grantee.** Computer records setting forth the date and substance of each complaint received by phone, mail, or other means during the preceding calendar month, if any, the name and address of each complaining party, and the date and nature of action taken by the grantee to respond to such complaints, or, if still pending, the status thereof, shall be maintained by the grantee and be available to the City for review for two (2) years after such complaint is received by the grantee.

**6-13-14 City's Role in Complaints.** Unresolved complaints concerning the system or its operation or maintenance shall be directed to the office of the Mayor. The Mayor shall forward the complaint to the grantee or shall take the questions up by correspondence with the grantee. Within such time as may be prescribed by the Mayor, the grantee shall resolve the complaint or advise the City of its refusal or inability to do so. When the grantee resolves the complaint, it shall so notify the City. If a complaint has not been resolved, the complainant may petition the City to take any appropriate action authorized by this ordinance.



**6-13-15 Other Business and Activities.**

1. Neither the grantee nor any principal or employee of the grantee shall engage in the business of buying, selling, repairing, training, or installing television receivers within the City during the term of this franchise and the grantee shall not allow any of its principals or employees to so engage in any such business.
2. This franchise authorizes only the operation of a cable system as provided for herein, and does not take the place of any other license or permit which might be required by law for the grantee or its employees and agents.

**6-13-16 Safety Requirements.**

1. The grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
2. The grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electrical Code, as adopted by the City, and all applicable state and local laws, and in such a manner that they will not interfere with any installations of the City or of a public utility serving the City.
3. All structures, lines, equipment, and connections in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the City, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

**6-13-17 Placement of Facilities.**

1. All transmission and distribution structures and equipment erected by the grantee within the City shall be so located as to cause

minimum interference with the proper use of streets, alleys, and other public ways and places.

2. If, at any time during the period of this franchise, the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or public way, the grantee, upon reasonable notice by the City, shall remove and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.
3. Any poles or other fixtures placed in any public way by the grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.
4. The grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily remove, raise, or lower its transmission wires to permit moving such buildings. The expense of such temporary removal, raising, or lowering of wires to permit the moving of buildings shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than five (5) business days' advance notice to arrange for such temporary wire changes.
5. The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the grantee's expense.
6. In all sections of the City where any cables, wires, or other like facilities or public utilities are placed underground, the grantee shall place its cables, wires, or other like facilities underground, if possible.

- 6-13-18 Preferential or Discriminatory Practice Prohibited.** The grantee shall not, as to rates, charges, service, service-facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject to any person to any prejudice or disadvantage, based on that person's race, color, national origin, or gender.
- 6-13-19 Transfers and Assignments.** The grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the grantee, without the prior consent of the City, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, title, or interest of the grantee in the franchise or system in order to secure indebtedness. Within thirty (30) days of receiving the request for transfer, the City shall, in accordance with FCC rules and regulations, notify the grantee in writing of the information it requires to determine the legal, financial, and technical qualifications of the transferee.
- 6-13-20 City Rights in Nonexclusive Franchise.**
1. The right is reserved to the City or to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its lawful police powers. However, such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.
  2. The Mayor shall have the right to inspect the grantee's books, records, maps, and plans pertaining directly to the franchise granted hereunder at any time during normal business hours and upon ten (10) days written notice to the grantee.
  3. The City shall have the right to supervise construction or installation work performed subject to the provisions of this franchise and make such inspections as it shall find necessary to ensure compliance with the terms of this franchise and other pertinent provisions of the state and local law.

4. At the expiration of the franchise term, or upon its termination and cancellation as provided herein, the grantee shall remove, at its own expense, all portions of its system from all public ways within the City.
5. The grantee shall furnish, at the City's request, true and accurate strand maps indicating the distribution System within the City limits.

**6-13-21 City and Community Notices.** The grantee shall make the cable system and all necessary facilities available to the City and to responsible civic organizations on a reasonable basis for the purposes of transmitting and televising notices of City Council meetings, City elections, civic events being held in the City, or other information of public concern.

**6-13-22 Unauthorized Connections or Modifications.**

1. It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of the system for any purpose whatsoever.
2. Any person convicted of a violation of this section shall be guilty of a simple misdemeanor.

**6-13-23 Public Service Installations.** The grantee shall, without charge for installation, maintenance, or service, install a single subscriber outlet at the Fruitland City Hall and the Fruitland Fire Department. No monthly service charges shall be made for distribution of the grantee's basic and expanded basic service at such locations.

**6-13-24 Franchise Fee.** As compensation for the franchise granted herein and in consideration for the use of the streets and public ways of the City for the construction, operation, and maintenance of a system within the City, the grantee shall pay to the City an annual amount equal to five percent (5%) of the grantee's Gross Annual Revenues derived from cable service. All funds due to the City pursuant to this subsection shall be deposited into the general fund of the City. Payment due to the City under this provision shall be made quarterly at the City Clerk's Office not later than forty-five (45) days following March 31, June 30, September 30, and December 31 each year. Any fee not paid when due shall bear interest at the rate of one and one-half percent (1-1/2%) per month from the date due. Each payment shall be accompanied by a detailed report showing the basis for the computation, specific income categories, and such other relevant facts as may be required by the City. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the grantee. All amounts paid shall be subject to audit and recomputation by the City.

**6-13-25 Forfeiture of Nonexclusive Franchise.**

1. In addition to all other rights and powers pertaining to the City by virtue of this franchise or otherwise, the City reserves the right to terminate and cancel this franchise and all rights and privileges of the grantee hereunder in the event that the grantee:
  - a. Violates substantially any provision of this ordinance or any rule, order, or determination of the Mayor and Council made pursuant to this franchise, except where such violation, other than subsection (b) below, is without fault or through excusable neglect.
  - b. Becomes insolvent or unable to pay its lawful debts, or is adjudged bankrupt.

- c. Violates or attempts to evade any of the provisions of this franchise or practices any fraud or deceit upon the City or its citizens.

Such termination and cancellation shall be by ordinance duly adopted after sixty (60) days' notice to the grantee before final reading of same and shall in no way affect any of the City's rights under this franchise or any provision of law. However, before this franchise may be terminated and cancelled under this section, the grantee must be provided with an opportunity to be heard before the Council. Nothing in this paragraph shall be construed to deny the grantee the rights and remedies afforded by due process of law.

**6-13-26 Further Agreement by Grantee.** The grantee agrees to abide by all provisions of this ordinance.

**6-13-27 Protection of Privacy.** Grantee shall abide by the Subscriber privacy protection requirements contained in the federal Cable Act, 47 U.S.C. § 551, and applicable FCC regulations.

**6-13-28 Severability.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction or by the FCC, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of this ordinance as a whole, or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**6-13-29 Notice.** Unless expressly otherwise agreed between the parties, every notice or response to be served upon City or grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the U. S. Postal Service.

Notices or responses to the City shall be addressed as follows:

City of Fruitland  
Fruitland City Hall  
Fruitland, Iowa 52749

Notices or responses to Grantee shall be addressed as follows:

Attention: General Manager Board of Water, Electric, and  
Communications Trustees of the City of Muscatine, Iowa  
3205 Cedar St.  
Muscatine, IA 52761-2204