

**TINGLEY
CODE
OF
ORDINANCES
April 5, 2022**

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ALL REFERENCES TO IOWA CODES ARE CURRENT AS OF 01 FEB 2022

TITLE I GENERAL PROVISIONS
CHAPTER 1 GENERAL PROVISIONS

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

1. "City" means the City of Tingley, 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;

2. "Clerk" means Clerk-Treasurer.

3. "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;

4. "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;

5. "County" means the County of Ringgold, Iowa;

6. "Fiscal Year" means July 1 to June 30.

7. "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;

8. "May" confers a power;

9. "Month" means a calendar month;

10. "Must" states a requirement;

11. "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";

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

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

14. "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;

15. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;

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

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

18. "Property" includes real and personal property;

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

20. "Shall" imposes a duty;

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

22. "State" means the State of Iowa;

23. "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;

24. "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;

25. "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;

26. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;

27. "Year" means a calendar year;

28. 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;

29. 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 Tingley Municipal Code of 2008 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.

TITLE I GENERAL PROVISIONS

CHAPTER 2 RIGHT OF ENTRY

1-2-1 Right of Entry

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

TITLE I GENERAL PROVISIONS

CHAPTER 3 PENALTY

1-3-1 General Penalty

1-3-3 Scheduled Fines

1-3-2 Civil Penalty -Municipal Infraction

1-3-1 **GENERAL PENALTY.** Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Ordinances of Tingley is guilty of a misdemeanor. Any person convicted of a misdemeanor under the Ordinances of Tingley shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment not to exceed thirty days.

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

1-3-2 **CIVIL PENALTY - MUNICIPAL INFRACTION.**

(Code of Iowa, Sec. 364.22)

1. Definitions.

a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Tingley, 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 Tingley, 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 Tingley.

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

2. Violations, Penalties, and Alternative Relief.

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

Schedule of Civil Penalties

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

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

All other repeat offenses—Additional Fine not less than seven hundred fifty dollars (\$750.00), but not more than one thousand dollars (\$1,000).

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

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

3. Civil Citations

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

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

c. The original of the citation shall be sent to the Clerk of the district court.

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

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

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

TITLE I GENERAL PROVISIONS

CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

- 1-4-1 Purpose and Intent
- 1-4-2 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 Tingley City Council at _____ on the _____ day of _____, 20____, at the hour _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk."

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

1-4-5 CONDUCT OF HEARING.

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

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

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

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

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

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

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

b. To introduce documentary and physical evidence;

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

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

e. To rebut the evidence against the party; and

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

7. Official Notice.

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

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

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

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

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

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

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

1-4-6 METHOD AND FORM OF DECISION.

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 1 CITY CHARTER

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

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

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

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

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 2 APPOINTMENT & QUALIFICATIONS OF MUNICIPAL OFFICERS

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

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

2-2-2 **APPOINTMENT OF OFFICERS.** The Mayor shall appoint a Mayor Pro Tempore.

The City Council shall appoint the first Fire Chief of the volunteer fire department for a term of two (2) years. Future Fire Chiefs shall be elected for terms of two (2) years by the members of the volunteer Fire Department, with the approval of the City Council.

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

(Code of Iowa, Sec. 374.4(3))

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

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

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

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| 2-3-1 | General Duties | 2-3-5 | Powers and Duties of the Mayor |
| 2-3-2 | Books and Records | 2-3-6 | Powers and Duties of the Clerk |
| 2-3-3 | Deposits of Municipal Funds | 2-3-7 | Powers and Duties of the Fire Chief |
| 2-3-4 | Transfer of Records and Property To Successor | | |

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 first day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds.

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

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

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

(Code of Iowa, Sec. 380.6)

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

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

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

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

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

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

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

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

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

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

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 post a condensed statement of the proceedings thereof, to include the total expenditure from each City fund. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

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

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

(Code of Iowa, Sec. 384.20)

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

16. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of the Clerk's duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of

the Mayor or other authorized officer, affix the seal of the corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

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

2-3-7 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

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

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

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

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

5. The Fire Chief shall make monthly written or oral reports to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Clerk. The annual report shall also contain recommendations for the improvement of the department.

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

- a. Fire prevention.
- b. Maintenance and use of fire escapes.
- c. The investigation of the cause, origin and circumstances of fires.
- d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 4 CITY COUNCIL

2-3-1 Powers and Duties

2-3-3 Meeting

2-3-2 Exercise of Power

2-3-1 **POWER AND DUTIES.** The powers and duties of the City Council include, but are not limited to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2-3-2 **EXERCISE OF POWER.** The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

2-3-3 MEETINGS. Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the first Monday of each month at seven o'clock (7:00) p.m. in the Community Building. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and

such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.

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

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

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

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 5 SALARIES OF MUNICIPAL OFFICERS

2-4-1 Council Member

2-4-3 Mayor Pro Tem

2-4-2 Mayor

2-4-4 Other Officers

2-4-1 **COUNCIL MEMBER.** The salaries of each City Council member shall be \$20.00 for each meeting of the City Council but in no event shall any City Council member be paid more than \$360 in any one year.

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

2-4-2 **MAYOR.** The Mayor shall receive an annual salary of \$600.00 to be paid in equal monthly installments, (\$50 per month) payable annually or monthly at Mayor's decision.

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

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

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 6 CITY FINANCE

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

(Code of Iowa, Sec. 384.19)

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

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.22)

2-5-6 **COUNCIL TRANSFERS.** When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the posted 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))

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

The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed \$1,000 at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council.

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

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

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

2-5-9 **EXPENDITURES.** Purchases not exceeding one hundred dollars (\$100.00) may be made by those officials authorized by the City Council. Notification of these purchases should be reported to the Clerk within forty-eight (48) hours, weekends, and holidays excepted. The Clerk is hereby authorized and directed to execute the necessary payments as listed:

Contractors
Employee, Mayor, Clerk, and Council wages
Electric utilities
Water utilities
Telephone utilities
Fuel and propane
Employee benefit payments (IPERS, State withholding, Federal withholding, etc.)
Ringgold County Jail Fund
Specific budgeted expenditures (Road rock, etc.)
Repair, maintenance, and office supplies under \$100

All other purchases shall be valid only by council approval.

2-5-10 **AUTHORIZATIONS TO EXPEND.** The Clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, supported by council approval and a signed receipt or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced. If no adequate appropriation is available for the expenditure contemplated the Clerk shall not issue payment until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council.

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

(Code of Iowa, Sec. 384.20)

2-5-12 **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)

2-5-13 **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.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 7 POSTING

2-6-1 Purpose

2-6-3 Removal Unlawful

2-6-2 Listing; Length of Notice

2-6-1 **PURPOSE.** The City of Tingley 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: Wagon Wheel Cafe, Tingley Post Office, Tingley Community Building. The City 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 City 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 city 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.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 8 CITY ELECTIONS

2-7-1 Purpose	2-7-6 Filing, Presumption, Withdrawals, Objections
2-7-2 Nominating Method to be Used	2-7-7 Persons Elected
2-7-3 Nominations by Petition	2-7-8 Primary and Runoff Abolished
2-7-4 Adding Name by Petition	
2-7-5 Preparation of Petition	

2-7-1 **PURPOSE.** The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-7-2 **NOMINATING METHOD TO BE USED.** All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

(Code of Iowa, Sec. 376.3)

2-7-3 **NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

2-7-4 **ADDING NAME BY PETITION.** The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

(Code of Iowa, Sec. 45.2)

2-7-5 **PREPARATION OF PETITION.** Each eligible elector shall add to the signature the elector's residence address, and date of signing. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

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

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

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

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

Such petition when so verified shall be known as a nomination paper.

(Code of Iowa, Sec. 45.5)

2-7-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

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

2-7-8 PRIMARY AND RUNOFF ABOLISHED. The Council has adopted Chapters 44 and 45 of the Code of Iowa for conducting elections and in accordance with Section 376.6(2), Code of Iowa, no primary or runoff election will be conducted for City offices.

TITLE III COMMUNITY PROTECTION

CHAPTER 1 OFFENSES

3-1-1 Violations of Chapter

3-1-4 Streets

3-1-2 Public Peace

3-1-5 Public Safety and Health

3-1-3 Public Morals

3-1-6 Public Property

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

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

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

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

2. Make or allow unusually loud or excessive noise such as loud music, vehicles or barking dogs which results in the disturbance of the peace and the public quiet of a neighborhood.

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

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

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

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

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

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

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

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

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

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

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

3-1-3 PUBLIC MORALS. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another or to urinate or defecate in 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 promptly. Upon failure by the abutting property owner to perform the action required under this subsection within a reasonable time, the City may perform the required action and assess the costs against the abutting property.

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

4. 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 likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife unless they possess a Nonprofessional Permit to Carry Weapons.

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 military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

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

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator. A person shall not use or explode consumer fireworks on days or hours other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive. Acceptable hours as provided by Ringgold County will be in effect within City Limits.

(Code of Iowa, Sec. 727.2)

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 Ringgold County Sheriff, the Sheriff or his 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.

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

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

(Code of Iowa, Sec. 727.3)

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

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

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

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

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

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

12. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off with consent of the City council for such purposes.

(Code of Iowa, Sec. 364.12)

13. Tobacco free parks. The use of any tobacco product on any of the property comprising the City's public park(s) is prohibited. Any person violating this policy will be

instructed to discontinue use of tobacco products or leave said property. If the person fails to discontinue use of tobacco products or leave the property, then said person's right to be present on said property will terminate and a trespassing complaint will be made to law enforcement.

3-1-6 PUBLIC PROPERTY.

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

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

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

(Code of Iowa, 364.12(2))

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

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

4. 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)

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

(Code of Iowa, Sec. 716.1)

6. 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)

7. 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)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 727.8)

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

(Code of Iowa, Sec. 716.1)

Revised 4/5/2022

TITLE III COMMUNITY PROTECTION

CHAPTER 2 NUISANCES

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

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

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

(Code of Iowa, Sec. 657.1)

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

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

b. The causing or suffering any offal, refuse, garbage, 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.

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

i. 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))

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

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

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

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

l. Trees infected with Dutch elm disease.

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

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

n. 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)

o. 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)

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

3. The numbering of buildings.

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

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

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

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

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

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

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

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

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

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

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

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

1. A description of what constitutes the nuisance or other condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.
5. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A)

TITLE III COMMUNITY PROTECTION

CHAPTER 3 FIRE PROTECTION

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

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

(Code of Iowa, Sec. 364.16)

3-3-2 **VOLUNTEER FIRE FIGHTERS.** Residents of Tingley Township, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter.

(Code of Iowa, Sec. 362.10)

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

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

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

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

3-3-6 **FIRES OUTSIDE CITY LIMITS.** The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

(Code of Iowa, Sec. 364.16)

TITLE III COMMUNITY PROTECTION

CHAPTER 4 CURFEW FOR MINORS

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

3-4-1 **PREAMBLE.** The City of Tingley 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)

3-4-2 **FINDINGS AND PURPOSE.** The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 18 in the City of Tingley; and

Persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Tingley 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.

3-4-3 **DEFINITIONS.** In this chapter:

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

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

5. Minor means any person under age 18 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 law enforcement 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.

3-4-4 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.

3-4-5 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 law enforcement authorities about the minor's presence;
- g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Tingley, 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 Tingley, a civic organization, or another similar entity that takes responsibility for the minor;
- h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- i. Married or had been married.

2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified law enforcement authorities that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-4-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a law enforcement 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 law enforcement officers.

TITLE III COMMUNITY PROTECTION

CHAPTER 5 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

3-5-1 **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.

3-5-2 **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.

3-5-3 **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. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

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

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

3-5-5 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.

3-5-6 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.

3-5-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

3-5-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads,

buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

3-5-9 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

3-5-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-5-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

TITLE III COMMUNITY PROTECTION

CHAPTER 6 CIGARETTE LICENSE

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

3-6-1 **DEFINITIONS.** For use in this chapter the following terms are defined as follows:

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

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

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

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

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

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

3-6-2 **PERMIT REQUIRED.** No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Tingley, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

3-6-3 **ISSUANCE.** The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.

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

3-6-4 **EXPIRATION.** Permits expire on June 30 of each year.

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

3-6-5 **FEES.** The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

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

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

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

3-6-7 **SUSPENSION; REVOCATION; CIVIL PENALTY.**

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

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

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

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

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

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

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

g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not

to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

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

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

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

3-6-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

3-6-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

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

TITLE III COMMUNITY PROTECTION

CHAPTER 7 ALCOHOLIC BEVERAGES

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

3-7-1 **PURPOSE.** The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community. (Code of Iowa, Sec. 364.1)

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

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

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

3-7-3 **ACTION BY COUNCIL.** The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

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

3-7-4 **TRANSFERS.** The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

TITLE III COMMUNITY PROTECTION

CHAPTER 8 JUNK AND ABANDONED VEHICLES

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

3-8-1 **PURPOSE.** The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-8-2 **DEFINITIONS.** For the purpose of this chapter, the following terms are defined as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-8-3 REMOVAL OF ABANDONED VEHICLES.

1. The Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-8-2 (1). The 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 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 law enforcement officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

3-8-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Mayor shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lien holders 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 lien holders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lien holders 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 Mayor or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-8-6.

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

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-8-5.

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

2. The owner, lien holders or any person receiving notice may, by written request received by the Mayor 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 lien holders.

(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 lien holders after the ten day reclaiming period.

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

3-8-5 IMPOUNDMENT FEES AND BOND.

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

- a. an impoundment fee
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges (Code of Iowa, Sec. 321.89(3)(a))

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

3. If a hearing is requested under Section 3-8-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-8-5(1)

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

3-8-6 HEARING PROCEDURES.

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

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

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

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

3-8-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Tingley, 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. It shall be unlawful for any person or persons to establish a junk yard or salvage yard within the city limits of the City of Tingley.

3-8-9 NOTICE TO ABATE.

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

- a. the owner of the property.
- b. the occupant of the property.

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle.
- b. describe the location of the vehicle.
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
- d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

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

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

3-8-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

3-8-12 EXCEPTIONS. This chapter shall not apply to the following:

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

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

TITLE III COMMUNITY PROTECTION

CHAPTER 9 DRUG PARAPHERNALIA

3-9-1 Definitions

3-9-2 Exemption

3-9-3 Prohibition

3-9-1 **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)

3-9-2 **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)

3-9-3 **PROHIBITION.** It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

TITLE III COMMUNITY PROTECTION

**CHAPTER 10 PROVISIONS PERTAINING TO
NUISANCES PUBLIC PEACE, CHRONIC NUISANCE PROPERTIES**

3-10-1 Purpose	3-10-5 Notice procedure for Disorderly or Chronic Nuisances
3-10-2 Definition	3-10-6 Appeals
3-10-3 Disorderly House or Chronic Nuisance Prohibited	3-10-7 Civil Violations and Penalty
3-10-4 Authority to Restore Order and Disperse, Failure to Disperse	

BE IT ORDAINED by the City Council that the Code of Ordinances of the City of Tingley, Iowa be amended as follows:

3-10-1 PURPOSE. The purpose of this chapter is to establish a systematic procedure for effectively abating properties that negatively impact the quality of life in neighborhoods. These types of properties tend to place an undue and inappropriate burden on the other taxpayers in the City of Tingley by the frequent and chronic use of law enforcement services at the properties.

3-10-2 DEFINITIONS. Unless otherwise expressly stated or unless the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the following meanings. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance. For purposes of this section, the term “disorderly house” shall mean and include but is not limited to any building, house, enclosure, or place in or upon which occurs any of the following prohibited activities:

- a. Weeds, Brush, Trees. Dense growth of all weeds, vines, brush, trees or other vegetation in the City so as to constitute a health, safety or fire hazard.
- b. Any noise in violation of the provisions set forth in this or any other chapter of this Code of Ordinances. Filth or Noisome Substance. Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others. Storage of flammable material improperly stored.
- c. The open storage, use, consumption, or distribution of a controlled substance as defined in Chapter 124 of the Code of Iowa, under which possession of such substance would be an offense. (Code of Iowa 124.101)
- d. Gambling, any illegal activities in violation of Chapter 99B of the Code of Iowa.
- e. Dispensing, selling, or consumption of an alcoholic beverage in violation of Chapter 123 of the Code of Iowa.
- f. Acts of prostitution, pimping, or pandering as defined in Chapter 725 of the Code of Iowa. (Code of Iowa Chap 723A)
- g. Illegal use of fireworks that an individual, owner, lessee, renter, proprietor, or any other person with control of the real property allows, permits, hosts, consents to, or facilitates the use of.
- h. Offensive smells. Erecting, continuing, or using any building or other place for trade, employment or occasioning noxious exhalations, unreasonably offensive smells, become

injurious and dangerous to the health, comfort, or property of individuals or the public. Emission of dense smoke, noxious fumes, or fly ash. (Code of Iowa, Sec. 657.2)

3-10-3 DISORDERLY HOUSE OR CHRONIC NUISANCE PROHIBITED. No person (individual, owner, lessee, renter, proprietor, or any other person with control of the real property) shall knowingly keep, maintain, operate, or be concerned with keeping, maintaining or operating within the city a disorderly or chronic nuisance house; nor shall any person knowingly own or be interested as a proprietor or landlord of such a place.

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

1. ABATE OR ABATEMENT:

a. As applied to owner/occupants: The removal or correction of the condition or circumstances causing the property to be deemed a disorderly house or chronic nuisance property and/or the complete cessation of the action causing same.

b. As applied to a non-occupant owner: The initiation of all such actions or steps as may be reasonable and legal under the circumstances (and which would ordinarily lead to an abatement of the problem) together with a good faith continuation of those efforts.

2. ENFORCEMENT BY ACTION: An arrest, a determination that there is probable cause to make an arrest, the issuance of a citation or the issuance of a written or verbal warning associated with a nuisance activity as defined herein.

3. NUISANCE ACTIVITIES: Any illegal activity as defined by the Iowa Code 701.2 as a public offense; and as described in Titles: Community Protection and Physical Environment. A nuisance activity shall include, but not be limited to, the following types of activities:

Animal Control/Animal Neglect/Abandonment
Assault (any variation of an assault)/Sex Offenses
Disorderly Conduct/ Loitering
Drugs/Controlled Substances/ Liquor
Fighting/Drunkenness/Quarreling/Breaches of the Peace
Filt/Noisome Substances/Air Pollution
Fireworks/ Weapons Violations and Shots Fired
Gambling/ Prostitution/Houses of Ill Fame/Criminal Gang Activity
Junk Vehicles, Excessive/Flammable Trash/Rodent or Vermin Nuisance
Loud Noise/Vehicle/Machinery
Loud or Disorderly Party
Offensive Smells/Open Burning Toxic Materials/Storage of Solid Waste
Otherwise Causing Public Nuisance
Neglect/Dense Growth of Vegetation

(Code of Iowa Sec 657.3)

4. OWNER: An person, agent, firm, corporation, association or partnership, including a mortgagee in possession in whom is vested all or part of the legal title to a property or all or part of the beneficial ownership and the right to present use and enjoyment of the premises, or an occupant of that structure.

5. PERSON: Any natural person, association, partnership, corporation or other legal entity capable of owning or using property.

6. POLICE SERVICE FEE: The Police Department service fee is fifty dollars (\$50.00) per hour per officer. Any fraction of an hour is tabulated as a complete hour. If one office responds and is at the property for fifteen (15) minutes, the fee is fifty dollars (\$50.00). If

two officers respond and are at the property for one minute, the fee is one hundred dollars (\$100.00).

7. PROPERTY: Any single parcel in the City of Tingley assigned a Ringgold County parcel identification number. For property consisting of more than one unit, the term “property” shall refer to a particular unit.

3-10-4 AUTHORITY TO RESTORE ORDER AND DISPERSE- FAILURE TO DISPERSE.

Upon issuance of a citation for violation of this section, any peace officer of the city shall have the authority to restore order upon the subject premises, up to and including ordering the dispersal of persons from the subject premises. Any person who fails or refuses to obey and abide by such an order shall be guilty of a violation of this section. Any property that has generated three (3) or more calls for police services in any period less than twelve (12) months for nuisance activities that result in an enforcement action is a chronic nuisance property and has received more than the level of general and adequate police and has placed an undue and inappropriate burden on the taxpayers of the City of Tingley. As such, the City may charge the owners of such property the costs associated with providing police services, in the form of a police service fee, at properties at which nuisance activities chronically occur. Any nuisance activities reported by the owner of the property, a person designated by the owner of the property, or that are deemed as domestic abuse, shall not be counted.

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

3-10-5 NOTICE PROCEDURE FOR DISORDERLY OR CHRONIC NUISANCES

Disorderly or Chronic Nuisances

1. Procedure for Landlords. In the event that the City has determined that a habitual Disorderly House or Chronic Nuisance is a residential rental property, the City shall give notice via certified mail or personal service to the Landlord to the address listed on its rental registration on file with the City. Said notice shall describe the condition that at the residential rental property which gives rise to a violation of this Section and a notice that the failure to remedy the prohibited activity at the residential rental property may result in a violation of this Section. However, if the Landlord takes either of the following actions, the City shall not file a municipal infraction against the Landlord for violation of said Section:

a. Commenced procedures under Chapter 562A of the Code of Iowa to evict the tenant from the residential rental property; or

b. If a first offense against this particular tenant at the residential rental property, the Landlord provides to the City a plan to ensure that a recurrence of the violations will not continue at the residential rental property.

If the Landlord fails to take any action within thirty (30) days within the mailing of the notice described in this subparagraph 4, the City may file a municipal infraction citation against the Landlord for violation of said nuisance.

2. Procedure for Chronic Nuisance: When a property has been identified as chronic nuisance property three (3) or more calls of nuisance activity that result in enforcement action in any period less than twelve (12) months, the Mayor shall provide the owner of record a notice, in writing, that the property has been declared a chronic nuisance property. A copy of the notice shall be served on the owner at least twenty (20) days prior to the commencement of any judicial

action by the City. Service shall be made either personally or by mailing a copy of the notice by first class mail, postage prepaid, to each person at the address as it appear in the records of the County auditor. Additionally, a copy of the notice shall be served on the occupant of the structure if that person is different than the owner and shall occur not less than ten (10) days prior to the commencement of any judicial proceeding and may be made either personally or by mailing a copy of the notice by first class mail, postage prepaid, to that person at the structure. In the event that notice is impossible to be served as set out above, a copy of the notice may be posted at the property if ten (10) days have elapsed from the service or mailing of the notice to the owner. The failure of any person or owner to receive actual notice of the determination of the City shall not preclude future proceedings under this chapter. (Code of Iowa Sec. 364.12)

3-10-6 APPEALS. Property owners or Landlord, within thirty (30) days of the mailing of the notice above, may file written notice of appeal to the City Clerk. The appeal will be heard in accordance with the appeal procedures outlined in Chapter 4 of this Code.

3-10-7 CIVIL VIOLATIONS AND PENALTY.

1. Any person violating or resists the enforcement of any of the provisions of this Section shall be deemed guilty of a simple misdemeanor and conviction of such may impose punishment as outlined in Title 1 Chapter 3 of this Code. A Municipal infraction is punishable by a civil penalty of one hundred dollars (\$100.00) for the initial offense and two hundred dollars (\$200) for each repeat offense. Any person who violates a provision of this chapter after having previously been found guilty of violating the same provision of this chapter at the same location shall be guilty of a repeat offense. Seeking a civil penalty as authorized in this section does not preclude the City from seeking alternative relief, including, but not limited to, any order for abatement or injunctive relief from the court in the same action or in a separate action.

(Code of Iowa, Sec. 364.13)

2. Any repeat violations of this Section by a property owner or tenant may be considered a municipal infraction punishable as outlined in Chapter 3 of this Code.

Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Effective Date. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 1 ANIMAL PROTECTION AND CONTROL

4-1-1	Definitions	4-1-9	Sanitation
4-1-2	Animal Neglect	4-1-10	Rabies Vaccination
4-1-3	Livestock Neglect	4-1-11	Owner's Duty
4-1-4	Abandonment of Cats and Dogs	4-1-12	Confinement
4-1-5	Livestock	4-1-13	At Large: Impoundment
4-1-6	At Large Prohibited	4-1-14	Disposition of Animals
4-1-7	Damage or Interference	4-1-15	Pet Awards Prohibited
4-1-8	Annoyance or Disturbance		

4-1-1 **DEFINITIONS.** The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.

2. "Animal" means a nonhuman vertebrate.

(Code of Iowa, Sec. 717B.1)

3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

4. "Business means any enterprise relating to any of the following:

- A. The sale or offer for sale of goods or services.
- B. A recruitment for employment or membership in an organization.
- C. A solicitation to make an investment.
- D. An amusement or entertainment activity.

5. "Fair" means any of the following:

- A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
- B. An exhibition of agricultural or manufactured products.
- C. An event for operation of amusement rides or devices or concession booths.

6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.

7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.

(Code of Iowa, Sec. 717.1)

8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. "Pet" means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

4-1-2 **ANIMAL NEGLECT.** It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress, or suffering.

(Code of Iowa, Sec. 717B.3)

4-1-3 **LIVESTOCK NEGLECT.** It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

(Code of Iowa, Sec. 717.2)

4-1-4 **ABANDONMENT OF CATS AND DOGS.** A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec. 717B.8)

4-1-5 **LIVESTOCK.** It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

4-1-6 **AT LARGE PROHIBITED.** It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

4-1-7 **DAMAGE OR INTERFERENCE.** It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

4-1-8 **ANNOYANCE OR DISTURBANCE.** It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

4-1-9 **SANITATION.** It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

4-1-10 **RABIES VACCINATION.** Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in kennels and not allowed to run at large are not subject to these vaccination requirements.

4-1-11 **OWNER'S DUTY.** It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

4-1-12 **CONFINEMENT.** If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten (10) days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

1. Any dog found at large in violation of Sections 4-1-3 and 4-1-4 of this chapter shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

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 dog(s) are not recovered by their owners within seven (7) days after notice, the dog(s) 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)

4-1-13 **DANGEROUS ANIMALS.**

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

2. Definitions. A dangerous animal is:

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

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

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

(2) Wolves, coyotes, and foxes;

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

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

(11) Any cross breed of such animals which have similar characteristics of the animals specified above.

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

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

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

4-1-14 **KEEPING A VICIOUS ANIMAL.** It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. A vicious animal is deemed so when it shall have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought reasonably be known to the owner thereof.

4-1-15 **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.

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 1 FACTORY-BUILT STRUCTURE REGULATION

- 5-1-1 Purpose
- 5-1-2 Definitions
- 5-1-3 Location and Size of Factory-Built Structures
- 5-1-4 Special Permit for Location of Factory-Built Structures
- 5-1-5 Factory-Built Structure Park Regulation
- 5-1-6 Factory-Built Structure Regulations
- 5-1-7 Severability

AN ORDINANCE REGULATING FACTORY-BUILT STRUCTURES AND FACTORY-BUILT STRUCTURE PARKS WITHIN THE CITY LIMITS OF TINGLEY, IOWA.

Be it ordained by the Council of the City of Tingley, Iowa.

5-1-1 **PURPOSE.** The purpose of this ordinance is to provide for municipal regulation of factory-built structures and factory-built structure parks in furtherance of the public health, safety, morals, and welfare.

5-1-2 **DEFINITIONS.** For use with this Ordinance the following terms are defined. Rule 103A.9, State Building Code, Rule 103A.51

1. “Mobile Home” means a structure, transportable in one or more sections, which exceeds eight foot (8) in width and thirty-two (32) feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. A “mobile home” is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.
2. “Manufactured Home” means a factory-built structure built under the authority of 42 U.S.C. 5403, that is required by federal law to display a seal required by the United States department of housing and urban development and was constructed on or after June 15, 1976.
3. “Factory Built Structure” means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation on a building site. “Factory Built Structure” includes the terms “mobile home”, “manufactured home” and “modular home”. A modular home (or prefabricated home) is built in a factory to about 80-90% completion and then trucked over to the building site. Factory structures homes do not include campers, RV’s, toy haulers, motor homes, or other recreational vehicles. Please refer to TITLE V PHYSICAL ENVIRONMENT, CHAPTER 7 CAMPER REGULATION.
4. “Camper” shall mean a motorized vehicle, camper trailer or a vehicle camper shell for sleeping and simple housekeeping, used for camping and recreational travel.

5. "Factory-built structure park" shall mean any site, lot, field, or tract of land upon which two or more occupied factory-built structures, are harbored, either free of charge or for revenue purposes, and shall include any building structure, tent, vehicle, or enclosure used or intended for the use as part of the equipment of such mobile home park. The term "factory-built structure park" shall not be construed to include factory-built structures, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their premises and used exclusively to house their own labor or students.

5-1-3 LOCATION AND SIZE OF FACTORY-BUILT STRUCTURES. Placement of any factory-built structure must be on a cleared lot. Cleared lot meaning: a lot free of any building so designed, constructed, or reconstructed for human habitation. Factory-built structures must be no smaller than eight hundred fifty (850) square feet as manufactured.

5-1-4 SPECIAL PERMIT FOR LOCATION OF FACTORY BUILT-STRUCTURE. No factory-built structure shall be placed except by a permit issued by the city council as set forth herein. There will be a \$5.00 application fee. Permits shall not be granted for periods in excess of one (1) year but upon expiration of an initial ore renewal permit, reapplication may be made. Applications for permits will include:

1. A description of sanitation facilities contained within the factory-built structure and those facilities available at the proposed location.
2. A statement of the desired duration of the permit.
3. A description of the use of the factory-built structure as its intended to serve.
4. Photographs of the factory-built structure.
5. The unit must be available for inspection prior to approval of permit.

Review of submitted application shall be completed by the City Council within four (4) weeks of the date of submission. Approval or rejection of said application and issuance or permits, if approved, shall be completed within six (6) weeks of application submission.

No permit shall be issued prior to inspection of the factory-built structure and approved by a majority of the City Council. The City Council shall have the power to approve or reject any application submitted to or reviewed by said council for reasons in Section 5-1-1. No factory-built structure shall be occupied prior to successful and proper connections as so defined in the Iowa State Code for factory built structures.

5-1-5 FACTORY-BUILT STRUCTURE PARK REGULATION. No factory-built structure park shall be established within the City of Tingley, Iowa.

5-1-6 FACTORY-BUILT STRUCTURE REGULATIONS

1. Factory-built structure must be a single-family residence.

2. Factory built structure must be owner-occupied.
3. All units must not be older than six (6) years unless otherwise authorized by the City Council.
4. Single width factory-built structures must have a minimum eight hundred fifty (850) square feet and be a minimum of fourteen (14) feet wide.
5. Frost footings with an underground depth of at least forty two (42) inches, piers, and supports that have the ability to support the entire weight of the home and its contents must meet Iowa State Code for factory-built structures.
6. All units must be skirted and tied down within 150 days per Iowa State Code. 103A.60
7. No exposed storage of personal property will be allowed. Storage of property under decks will be allowed provided areas are skirted to the view of the public.
8. Only one factory-built structure is allowed per lot.

5-1-7 **SEVERABILITY.** If any section, provision, or this ordinance shall be adjudged invalid or unconstitutional, such adjunction shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 2 SIDEWALK REGULATIONS

5-2-1 Purpose	5-2-5 Liability of Abutting Owner
5-2-2 Definition	5-2-6 Notice of Assessment for Cleaning Costs
5-2-3 Cleaning Snow, Ice, and Accumulations	5-2-7 Hearing and Assessment
5-2-4 Maintenance Responsibility	5-2-8 Billing and Certifying to County

5-2-1 **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.

5-2-2 **DEFINITIONS.** As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

- a. vertical separations equal to three-fourths (3/4) inch or more.
- b. horizontal separations equal to three-fourths (3/4) inch or more.
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
- g. a sidewalk with any part thereof missing to the full depth.
- h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

5-2-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

5-2-4 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))

5-2-5 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)

5-2-6 NOTICE OF ASSESSMENT FOR CLEANING COSTS. When the Mayor submits a bill 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)

5-2-7 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)

5-2-8 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 3 PERMISSION TO BUILD STRUCTURES

5-3-1 Purpose	5-3-7 Special Requirements for Residences
5-3-2 Structure Defined	5-3-8 Authority of City Council
5-3-3 City Council Permission Required	5-3-9 Limitation
5-3-4 Application	5-3-10 Fees
5-3-5 Plans Required	5-3-11 Fence
5-3-6 Location of Structure	5-3-12 Unauthorized Builds

5-3-1 **PURPOSE.** The purpose of this Chapter is for residents or non-residents to provide the City Council notice of structure type, kind, detail, and 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 erection or reconstruction of all structures. No provisions of this Chapter shall be construed to apply to farm houses, farm barns, farm outbuildings, or other buildings or structures which are primarily adapted, by reason of nature and area for agricultural purposes.

5-3-2 **STRUCTURE DEFINED.** Anything constructed or erected with a fixed location on the ground that protrudes above ground or surface level of a parcel of property. Structures include, but are not limited to, buildings, additions or extensions to existing buildings, walls, fences, billboards, aboveground storage tanks, or similar uses, any new construction, including structural additions to a current building and substantial structural, electrical, plumbing, and mechanical changes to an existing building. Any digging, digging in the City Right-of-Way, demolition or tearing down a structure, are considered part of the build and shall be recorded on the application to build. Any detached accessory buildings used as tool/storage sheds, playhouse or similar use that has a floor space of under one hundred twenty square feet, on skids, does not require a permit, but shall be no less than twenty four inches from an existing fence to allow for air flow to prevent mold and shall not be made part of a fence. Shed structures must be located at least two feet from any property line and three feet from any dwelling. Sidewalks, driveways and patios on private property do not require a building permit. Building or adding to a deck does require a permit.

International Residential Code

5-3-3 **CITY COUNCIL PERMISSION REQUIRED.** No structure shall be erected, reconstructed or added to without first securing permission from the City Council. No building or structure hereafter shall be used, erected, constructed, repaired, moved or demolished unless it fully complies with requirements of this Ordinance. Disconnection of sewer, water and any power, phone, communication lines. No permit to demolish shall be issued until it has been established that existing sewer, and/or water, power, phone or communication services have been properly disconnected and approved. Notwithstanding the foregoing, buildings and structures in existence at the time of adoption of this Ordinance may have their existing use or occupancy continued, if such use or occupancy complies with provisions of the Code in effect when initiated, provided however that continued use is not determined to be dangerous to health, life and safety.

5-3-4 **APPLICATION.** All requests for permission to build shall be submitted to the City Clerk in writing. Individuals shall request application forms from City Clerk, submit completed forms,

any requested documentation attached to the permit application, and permit fee. An application must be filed at least one week prior to the next Council meeting.

5-3-5 PLANS REQUIRED. Plans and specifications of any proposed structure or addition to existing structures shall be included with the written request for permission to build.

5-3-6 LOCATION OF STRUCTURE. A complete showing and description of real estate involved and location of the structure on the real estate shall be filed with the written application for permission to build. The perimeter of the structure shall be staked prior to submitting an application. City Council may inspect the building site prior to approving the permit.

5-3-7 SPECIAL REQUIREMENTS FOR RESIDENCES. Any structure which is to be a residence for living shall meet the following special requirements. This is for new construction, or altering the current footing of a structure.

1. A residence shall have a minimum of eight hundred fifty (850) square feet of livable space on the main floor.

2. All residences shall have a permanent perimeter foundation constructed of cement, concrete blocks with mortar or other permanent material approved by the City Council. Cold climates require foundation footings be placed below the frost line, which can be about 4-feet deep. Minimum depth of foundation is 1 meter (3.5 feet) for one story building in medium clay soil, 4 feet (1.2m) depth for 2 story, 5 feet (1.5m) depth for 3 story, 6 feet (1.8m) depth for 4 story and 7 feet (2.1m) depth for 5 story building.

5-3-8 AUTHORITY OF CITY COUNCIL. The City Council shall have full authority to accept or reject any plans and specifications submitted.

5-3-9 LIMITATIONS. In the event that construction is not initiated and underway within one year from the date of approval of application and issuance of permission by the City Council, such permission shall be deemed void and of no effect. At such time a new permit request and additional fee shall be submitted to the City Clerk.

5-3-10 FEES. A permit fee of \$5 shall be paid by the applicant to the City at the time of application and prior to approval of Building Permit. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fee(s) for the additional work has been paid. Subsection 106.6.2 Fee schedule.

5-3-11 FENCE. Any person desiring to build a non-farm fence or wall shall come before City Council to obtain a building permit. Adjoining landowners may build a partition fence and jointly maintain it if both parties are in agreement to place a fence half on each side of the property line. Boundary fences made from hedge shall be trimmed back twice per year, once in June and once in September, to within 5 feet of the ground unless neighbors agree otherwise. Standard property line division fences may be installed at the property line up to 2 to 8 inches from a property line. A fence is permitted within the limits of the side and rear yards to a maximum of six feet in height. Buildings or fences required setback on the side is 5 feet, while the front and back require 10 feet at a minimum. Iowa follows the common law that gives

property owners the right to "self help" by trimming encroaching tree branches on their side of the property line. A landowner can also dig up roots that grow onto their property.

(Code of Iowa, Chapter 359A)

5-3-12 UNAUTHORIZED BUILDS.

1. 12 Month Expiration. Permit issued under provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration; permit may be issued for the term of the construction schedule, with approval of the City Council. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

Chapter 155 of the Building and Construction Regulations Subsections 105.5 and R105.5

2. Inspections Required in Case of Violation. Additional inspections shall be required where there is reason to believe that construction, alterations or installations are being made not in accordance with the regulations laid down in this chapter, or when written objections are filed by any party interested or affected by said construction or alteration and the Council finds objections are well taken, or when the Health Officer or Fire Chief requests the Council to have an inspection made. The Council shall, in any of the above events when an additional inspection is required, order the Code Enforcement Officer or inspector, as the case may be, to make said inspection and report back such official's or inspector's findings to the Council within two (2) days from the time said inspection is required.

Chapter 155.06 of the Building and Construction Regulations

3. Removal of Violations. Any person who erects any building, structure, or addition thereto, or makes any installation or uses any equipment or appliance contrary to the provisions of this chapter shall be given thirty (30) days' notice in writing to remove the same, and if such removal is not completed within said time, the City shall cause the same to be done, and report the same to the Clerk, and the costs of removal shall be charged to the person committing such violation. The costs and expense may be collected by an action brought in the name of the City against such party, or may be collected by a special assessment upon the real estate upon which such violation occurs, all in the manner and form as provided for special assessments.

Chapter 155.09 of the Building and Construction Regulations

Any person who shall continue any work on the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

1. Additional liability. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within thirty days after such service, or continues to violate any provisions or requirements of this chapter in the respect named in such notice or order, shall also be subject to a civil penalty of one hundred (\$100) dollars. For the recovery of such penalties, costs, expenses or disbursements, an action may be brought in a court of competent civil jurisdiction.

Chapter 102.11.16 of the Building and Construction Regulations

ADOPTION OF BUILDING CODES. Pursuant to published notice and public hearing, as required by law, the following codes are hereby adopted as, and constitute, “The Building Codes” of the City of Tingley, Iowa, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City and the same are by this reference incorporated herein as fully and completely as if set forth in full herein.

Adopted 4/5/2022

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 4 MOWING OF PROPERTIES

- 5-4-1 Purpose
- 5-4-2 Mowing of Properties
- 5-4-3 Penalty
- 5-4-4 Method of Notice and Billing
- 5-4-5 Severability Clause
- 5-4-6 Exceptions

5-4-1 **PURPOSE** The purpose of this Chapter is to provide municipal regulation of vegetation within the City Limits. It is unlawful to fail, refuse or neglect to cut or destroy all weeds, vines, brush, or other growth and debris which constitute a health, safety or fire hazard on lots, parcels of ground, or on fronting or abutting streets and alleys.

5-4-2 **MOWING OF PROPERTIES.** Any property within the City of Tingley whether vacate or occupied, is required to be mowed any time the vegetation reaches a height of more than 12 inches by the first(1) and/or fifteenth(15) day of the month in May, June, July, August, September and October of each year. Vegetation shall be measured from the ground to the tip of the longest blade.

5-4-3 **PENALTY.** Any property which is not mowed as set out above may be mowed by the City or their agents, and a charge of \$75.00 per hour for such mowing, plus a surcharge of \$100.00, will be charged to the property owner. Any property owners who fail to mow their properties, thus allowing the same to be mowed by the City or their agents, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

5-4-4 **METHOD OF NOTICE AND BILLING.** Annual posting of this ordinance shall serve as general notice to all property owners. In addition, the City shall give written notice of a first violation to the property owner in each calendar year. Notice shall give the property owner a reasonable time to mow the property and failure to comply shall result in the City mowing the property as provided in section 11.2 of this ordinance. The City shall not be required to give more than one written notice to a property owner in a calendar year. Any billings for mowing done by the City or their agents are to be sent by regular mail and shall become delinquent 30 days after mailing. If not paid within 30 day period there will be additional administrative fee \$45 for each charge.

5-4-5 **EXCEPTION.** Any property which is being used to grow agricultural crops which are timely harvested is exempt from the provisions of this chapter.

5-4-6 **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 nor adjudged invalid or unconstitutional.

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 5 CAMPER REGULATION

5-5-1 Purpose

5-5-3 Use and Duration

5-5-2 Definition

5-5-4 Disposal of Waste

AN ORDINANCE REGULATING CAMPER USE WITHIN THE CORPORATE LIMITS OF THE CITY OF TINGLEY, IOWA.

Be it ordained by the Council of the City of Tingley, Iowa:

5-5-1 **PURPOSE.** The purpose of this ordinance is to provide for municipal regulation of campers in furtherance of the public health, safety, morals and welfare.

5-5-2 **DEFINITION.** For use with this ordinance the following term is defined.

1. "Camper" shall mean a motorized recreational vehicle, camper, tow trailer, toy hauler, conversion van, or a vehicle converted to a camper shell for sleeping and simple housekeeping, used for camping and recreational travel.

5-5-3 **USE AND DURATION.** A camper will not be used as a permanent residence within the City. A camper is used for camping and recreational travel. Duration of use as a temporary, secondary or alternate means of simple housekeeping on private property will not exceed 30 days unless otherwise authorized by the City Council.

5-5-4 **DISPOSAL OF WASTE.** Trash will be disposed in an appropriate trash receptacle and will not be stored outside of the camper. Wastewater, black water, and other sewage will be disposed of only in an authorized location. Dumping or disposal of these types of matter or other elements deemed harmful to the environment in City street drains or elsewhere on the ground is not allowed. If no authorized location is available, keep the sewage and wastewater stored in the camper.

Approved 4/5/2022

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 6 UTILITIES – SEWER SYSTEM FRANCHISE

AN ORDINANCE GRANTING TO THE SOUTHERN IOWA RURAL WATER ASSOCIATION, STATE OF IOWA, THE RIGHT AND NONEXCLUSIVE FRANCHISE TO CONSTRUCT A SEWER AND WASTEWATER TREATMENT FACILITY IN THE CITY OF TINGLEY, RINGGOLD COUNTY, IOWA, AND THEREAFTER TO MAINTAIN, OERATE, REPAIR, REMOVE, REPLACE, RENEW AND RECONSTRUCT SAID SEWER AND WASTEWATER TREATMENT FACILITIES AND THE RIGHT TO OPERATE, REPAIR, REPLACE AND MAINTAIN THE NECESSARY MAINS, PUMPS AND OTHER APPLIANCES UNDER THE STREETS, AVENUES, ALLEYS, AND PUBLIC PLACES IN THE CITY OF TINGLEY, RINGGOLD COUNTY, IOWA, AND THE RIGHT TO SUPPLY AND SELL TO INDIVIDUALS, CORPORATIONS, COMMUNITIES AND MUNICIPALITIES BOTH INSIDE AND OUTSIDE OF SAID CITY, SEWER AND WASTEWATER TREATMENT SERVICES FOR THE PERIOD OF 40 YEARS PURSUANT TO THE PROVISIONS OF CHAPTER 28E OF THE CODE OF IOWA (1995) AND PROVIDING FOR THE REGULATION OF SUCH ACTIVITY.

Be it ordained by the City Council of the City of Tingley, Iowa that:

ARTICLE ONE

PURPOSE

The purpose of this Ordinance is to set forth the terms and conditions of an agreement hereby made pursuant to the provisions of Chapter 28E of the Code of Iowa as a contract between two public entities, namely the City of Tingley, Ringgold County, Iowa, hereinafter referred to as “Grantor” or the “City, “ and the Southern Iowa Rural Water Association, State of Iowa (a Rural Water District organized under Chapter 357A of the Code of Iowa), hereinafter referred to as “Grantee” or “SIRWA” for the cooperative construction, operation, maintenance, repair, reconstruction and replacement of a public improvement, namely a sewer and wastewater treatment facility within the City of Tingley, Iowa.

ARTICLE TWO

GRANT OF FRANCHISE

The Grantor hereby grants to Grantee, its successors and assigns a nonexclusive franchise to construct within the City of Tingley a sewage and wastewater treatment facility and thereafter to remain, operate, repair, replace, renew, reconstruct, and remove a sewer and wastewater treatment facility across public property in the City of Tingley, Ringgold County, Iowa in accordance with the laws and regulations of the United States of America, the State of Iowa, and the rules and regulations of the Southern Iowa Rural Water Association, including the non-

exclusive right, privilege and authority to (a) sell and supply sewer and wastewater treatment services to individuals, corporations, communities and municipalities both inside and outside said City; (b) to use public property within the City; (c) to engage in such further activities within the City as may now or hereinafter be consistent with the accepted principals applicable to the operation of a sewer and wastewater treatment facility.

For the purpose of carrying into effect the privileges granted hereunder, grantee is authorized to make all necessary excavations in the streets, alleys, sidewalks, and public grounds within the corporate limits of Grantor, but such excavations shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the rights of the public as may be feasible. Grantee shall restore all streets, alleys, sidewalks, and public grounds to the condition of safety, appearance and utility specified by the relevant construction industry standards after excavation.

ARTICLE THREE

TERM

The franchise is granted for an initial term of forty (40) years commencing with the date of adoption of this Ordinance, provided, however, that Grantor may not withdraw from this agreement as long as Grantee shall have revenue bond obligations incurred for the construction, reconstruction or maintenance of said sewer and wastewater treatment facility outstanding at that time, as provided in Section 28E.4, Code of Iowa. Thereafter, the franchise may be renewed for an additional term upon such terms and conditions as may be mutually acceptable to Grantor and Grantee.

ARTICLE FOUR

FINANCING AND BUDGET

Initial funding of this joint undertaking shall be from revenues of the sewer utility and from loans, grants, revenue bonds or notes obtaining by Grantor and Grantee for the purpose of this joint undertaking.

Said revenue bonds or notes shall mature in a period not to exceed forty years from the date of issuance, shall bear interest or combined interest and insurance charges,, at a rate not to exceed that permitted by Chapter 74A, Code of Iowa, shall be payable only from revenue derived from the sale of sewer and wastewater treatment services by the Grantee, and shall never become or be construed to be a debt against the State of Iowa, Ringgold County or the City of Tingley.

Grantee shall have the responsibility for budgeting and administration of construction and operation of the sewer and waste water treatment system.

ARTICLE FIVE

GENERAL CONDITIONS

Section 1. Adoption of Rules and Regulations. Grantor hereby adopts and incorporates by reference the rules and regulations of the Grantee pertaining to construction, installation, repair, maintenance and operation of the system.

Section 2. Enforcement of Mandatory Connection Ordinances. Grantor shall be responsible for enforcement of its ordinances relative to mandatory connection to the sewer utility. However, this authority shall not preclude Grantee from exercising any remedies available to it in enforcing its rights under this franchise agreement in law or equity.

Section 3. Additions to Area of Grantor. On subsequent additions of areas to Grantor, either by annexation, consolidation, or otherwise, Grantee shall surrender all agreements for sewer and wastewater treatment services held by Grantee in such areas, such surrender being deemed to take place on the occurrence of any such event. Grantee shall thereafter be subject to the provisions of the franchise granted by this ordinance as to all such areas; provided, however, that should the franchise be declared invalid or rendered inoperative by a judgment, decree, or order of a court of competent jurisdiction which, being binding hereon, becomes final for all purposes. The franchises hereby surrendered shall thereafter have the same force and effect as if such surrender had not occurred.

Section 4. Expansion of Grantee's Facilities. Any facilities and appurtenances in streets, alleys, and public places, incidental to the franchised system that have been, or are at any future time acquired, leased, or utilized in any manner by Grantee are thereupon to be deemed authorized by and shall be subject to all the provisions of the franchise.

Section 5. Limitation of Franchise. No privilege or exemption is granted or conferred by the franchise except those specifically prescribed herein. Any privilege claimed under the franchise by Grantee in any street, alley, or other public place shall be subordinate to any lawful occupancy of same by Grantor or by any other public agency, and to prior lawful occupancy of same by any other entity or person.

Section 6. Grantee's Separate Powers Not Limited. Notwithstanding the foregoing limitations, nothing in this agreement shall be deemed a limitation of Grantee's separate powers as set forth in Section 357A.11 of the Code of Iowa or any other relevant provision of the Code of Iowa and other applicable law.

ARTICLE SIX

ASSIGNMENT OF FRANCHISE

Grantee shall not have the right to sell or lease the franchise, except on prior written approval by ordinance of the City Council of Tingley.

This Article shall not be deemed a limitation upon the Grantee's power and authority to pledge revenues derived from the franchise or assets of the distribution system acquired under this agreement as collateral with the United States of America, acting through Rural Economic and Community Development (formerly the Farmers Home Administration), its successor agencies or any other lender.

Grantee does, in fact, hereby pledge and assign to the United States of America, acting through Rural Economic and Community Development (RECD) and its successor agencies its rights under this contract as additional collateral.

ARTICLE SEVEN

FORFEITURE

The franchise may be forfeited, at the option of the Grantor, upon failure or refusal by Grantee to observe the terms and conditions set forth herein. Forfeiture may be exercised by written notice to Grantee of failure to observe the terms and conditions hereof, followed by Grantee's refusal to eliminate or correct such failure or violation within one year. In the event of any failure or violation, Grantor may sue in its own name in the manner provided by law for the forfeiture of the franchise and the exercise of such remedy of forfeiture shall not preclude exercise of any other right or remedy given to Grantor by law, whether exercised concurrently or subsequently.

ARTICLE EIGHT

SEVERABILITY

If any section, provision or part of this agreement shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the agreement as a whole, or any section; provision or part thereof not adjudged invalid or unconstitutional.

ARTICLE NINE

REPEALER

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

RESOLUTION CALLING FOR AN ELECTION ON THE MATTER OF THE GRANT OF A NONEXCLUSIVE FRANCHISE TO THE SOUTHERN IOWA RURAL WATER ASSOCIATION, STATE OF IOWA, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A SEWER AND WASTEWATER TREATMENT FACILITY WITHIN TO CONSTRUCT, OPERATE AND MAINTAIN A SEWER AND WASTEWATER TREATMENT FACILITY WITHIN THE CITY OF TINGLEY, IOWA, FIXING THE DATE OF SAID ELECTION AND ORDERING PUBLICATION OF A NOTICE OF MUNICIPAL ELECTION.

WHEREAS, the City Council of Tingley, Iowa has enacted an ordinance granting a nonexclusive franchise to construct, operate and maintain a sewer and wastewater treatment facility within the City of Tingley, Iowa, to the Southern Iowa Rural Water Association;

WHEREAS, pursuant to the provisions of Chapter 364, Code of Iowa (1995), said franchise has been approved at an election held for this purpose; and,

WHEREAS, an election on said questions should be held.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Tingley, Iowa:

Section 1. That an election pursuant to the provisions of Chapter 364, Code of Iowa (1995), be and the same is hereby called for the 14th day of May, 1996, submitting the following questions to the qualified electors of this municipality:

“Shall Ordinance No. 38, as set out in Exhibit A attached to this resolution, granting to the Southern Iowa Rural Water Association, a non-exclusive franchise to construct, operate, repair, remove, replace and maintain a sewer and wastewater treatment facility within the City of Tingley, Iowa, be approved?”

Section 2. That the county Commissioner of Elections is hereby authorized and directed to publish notice of said election in a newspaper of general circulation in the City of Tingley, Iowa, said publication to appear not less than four nor more than twenty days before the date set for said election as required by Section 49.53, Code of Iowa (1995).

Section 3. The City Clerk is hereby directed to file a certified copy of this resolution with the County Commissioner of Elections as satisfaction of the 30 days’ written notice requirement, Chapter 47, Code of Iowa (1995).

PASSED AND APPROVED this 27 day of March, 1996.

/s/ Lloyd Miller
Lloyd Miller, Mayor of the
City of Tingley, Iowa

Attest:

/s/ Suzanne Miller
Suzanne Miller, City Clerk

NOTICE OF ELECTION
CITY OF TINGLEY

Notice is hereby given of a Special Election for the purpose of submitting the following question to the qualified electors of this municipality:

(SAMPLE BALLOT)

[Notice to voters. For an affirmative vote upon any question submitted upon this ballot make a cross (x) mark or check (ü) in the square after the word "Yes". For a negative vote make a similar mark in the square following the word "No".]

"Shall Ordinance No. 38, as set out in Exhibit A attached to this resolution, granting to the Southern Iowa Rural Water Association, a non-exclusive franchise to construct, operate, repair, remove, replace and maintain a sewer and wastewater treatment facility within the City of Tingley, Iowa, be approved?"

YES _____ NO _____

Said Special Election shall be held at the Tingley City Hall, Tingley, Iowa, on the 14th day of May, 1996. Voting polls will be open from 12:00 o'clock p.m. until 8:00 o'clock p.m..

A complete copy of Ordinance No. 38 is on file at the Tingley City Hall in the office of the City Clerk.

Eloise Brown, County
Commissioner of Elections

Passed by the Council the 27th say of March, 1996.

/s/ Lloyd Miller _____
Lloyd Miller, Mayor of the
City of Tingley, Iowa

Attest: /s/ Suzanne Miller, City Clerk
Suzanne Miller, City Clerk

TITLE V PHYSICAL ENVIRONMENT

CHAPTER 7 UTILITIES – SEWER

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER UTILITY; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF, IN THE CITY OF TINGLEY, COUNTY OF RINGGOLD, STATE OF IOWA.

Be it ordained and enacted by the Council of the City of Tingley, State of Iowa as follows:

ARTICLE I

(Definitions)

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Sec. 1. “BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

Sec. 2. “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Sec. 3. “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal.

Sec. 4. “Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Sec. 5. “Industrial Wastes” shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Sec. 6. “Natural Outlet” shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Sec. 7. “Person” shall mean any individual, firm, company, association, society, corporation, or group.

Sec. 8. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Sec. 9. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

Sec. 10. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sec. 11. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwater are not intentionally admitted.

Sec. 12. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm water as may be present.

Sec. 13. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

Sec. 14. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

Sec. 15. "Sewer" shall mean a pipe or conduit for carrying sewage.

Sec. 16. "Shall" is mandatory; "May" is permissive.

Sec. 17. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twentyfour (24) hour concentration or flows during normal operation.

Sec. 18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

Sec. 19. "Superintendent" shall mean the Superintendent of Sewage Works and/or of Water Pollution Control of the City of Tingley, or its franchisee, authorized deputy, agent, or representative.

Sec. 20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Sec. 21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Sec. 22. "City" shall mean the City of Tingley, Iowa.

ARTICLE II

Uses of Public Sewers Required

Sec. 1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of said city, any human or animal excrement, garbage,, or other objectionable waste.

Sec. 2. It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provide in accordance with subsequent provisions of this ordinance.

Sec. 3. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Sec. 4. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

ARTICLE III

Building Sewers and Connections

Sec. 1. No unauthorized person shall uncover, make any connections with or openings into, use, alter, or disturb any public sewer or appurtenance thereof.

Sec. 2. The size, slope, alignment, materials of construction of a building sewer tap to the sewer collection mains, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M> and W.P.C.F. Manual of Practice No. 9 shall apply.

Sec. 3. Whenever possible, the building sewer tap shall be brought to the building at an

elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 4. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 5. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

Sec. 6. The owner shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by the Superintendent or his representative.

Sec. 7. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

ARTICLE IV

Use of the Public Sewers

Sec. 1 No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

Sec. 2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer or natural outlet.

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

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

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in 88 sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharged to the public sewer.

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

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

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

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

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

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) 89 and one hundred fifty (150) °F (0 and 65°C).

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

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

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

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

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

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

(i) Materials which exert or cause:

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

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

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

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

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are 90 amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers,

(c) Require control over the quantities and rates of discharge, and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 10 of this Article.

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

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

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

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

Sec. 9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life,, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 14-hr. composites of all outfalls whereas pH's are determined from periodic grab samples.)

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

ARTICLE V

Protection from Damage

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

ARTICLE VI

Power and Authority of Inspectors

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

Sec. 2. While performing the necessary work on private properties referred to in Article VI, Section 1 above, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees or franchisee employees and the city or its franchisee shall indemnify the company against loss or damage to its property by city employees or the franchisee and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article IV, Section 4.

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

ARTICLE VII

Penalties

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

Sec. 2. Any person who shall continue any violation beyond the time limit provided for in Article VII, Section 1, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred (\$100) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Sec. 3. Any person violating any of the provisions of this ordinance shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

ARTICLE VIII

Repealer

Sec. 1. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 2. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

ARTICLE IX

Ordinance in Force

Sec. 1. This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Sec. 2. Passed and adopted by the Council of the City of Tingley, State of Iowa on the 1 day of May, 1996, by the following vote:

Ayes 5
Nays 0

Approved this 1 day of May, 1996.

/s/ Lloyd Miller
Lloyd Miller, Mayor

/s/ Suzanne Miller
Suzanne Miller, City Clerk

TINGLEY CODE OF ORDINANCES
April 5, 2017
Revised April 5, 2022