

TITLE III COMMUNITY PROTECTION

CHAPTER 6 CIGARETTE LICENSE

3-6-1 Definitions

3-6-2 Permit Required

3-6-3 Issuance

3-6-4 Expiration

3-6-5 Fees

3-6-6 Refunds

**3-6-7 Suspension; Revocation; Civil
Penalty**

3-6-8 Permits not Transferable

3-6-9 Display

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

1. "Cigarette" shall mean 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(3))

2. "Retailer" shall mean 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(21))

3. "Place of business" shall mean 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(23))

3-6-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Anita, 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 3-6-5.

(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)(a))

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

1. If a retailer or employee of a retailer has violated Sections 453A.2, 453A.36, subsection 6 or 453A.39 of the 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.

(Code of Iowa, Sec. 453A.22(2)(a))

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.

(Code of Iowa, Sec. 453A.22(2)(b))

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.

(Code of Iowa, Sec. 453(2)(c))

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.

(Code of Iowa, Sec. 453(2)(d))

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

(Code of Iowa, Sec. 453A.22(2)(e))

f. If an employee of a retailer violates section 453A.2, subsection 1, of the Code of Iowa, 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.

(Code of Iowa, Sec. 453A.22(3))

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.

(Code of Iowa, Sec. 453A.22(6))

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(7))

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.

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 – Seasonable, Five Day, or Fourteen-Day 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 CURFEW FOR MINORS

3-8-1 Preamble	3-8-4 Offenses
3-8-2 Findings and Purpose	3-8-5 Defenses
3-8-3 Definitions	3-8-6 Enforcement

3-8-1 PREAMBLE. The City of Anita 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)

3-8-2 FINDINGS AND PURPOSE. The city has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Anita; and

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

The City of Anita 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.

3-8-3 DEFINITIONS. In this Chapter:

1. "Curfew hours" shall mean 12:01 a.m. until 5:00 a.m..
2. "Emergency" shall mean 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" shall mean 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" shall mean:

- 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" shall mean any person under seventeen (17) years of age.

6. "Operator" shall mean 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" shall mean a person who is:

- a. A biological parent, adoptive parent or step-parent of another person; or
- b. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. "Public place" shall mean 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" shall mean to:

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

10. "Serious Bodily Injury" shall mean 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.

3-8-4 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.

3-8-5 DEFENSES.

1. It is a defense to prosecution under this chapter if the minor was:
 - a. Accompanied by the minor's parent or guardian;
 - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - c. In a motor vehicle involved in interstate travel;
 - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - e. Involved in an emergency;
 - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Anita, 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 Anita, 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 3-8-4(3) if the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-8-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-8-5 is present.

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

TITLE III COMMUNITY PROTECTION

CHAPTER 9 DRUG PARAPHERNALIA

3-9-1 Definitions

3-9-3 Prohibition

3-9-2 Exemption

3-9-1 DEFINITIONS. As used in this section, "drug paraphernalia" shall mean 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; or
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 REGULATING PEDDLERS, SOLICITORS
AND TRANSIENT MERCHANTS**

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

3-10-1 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 any 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.

3-10-2 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.

3-10-3 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 3-10-4 and 3-10-5. This permit shall extend no longer than sixty (60) 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)

3-10-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-10-1 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; and
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

3-10-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-10-1 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.

3-10-6 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.

3-10-7 BOND REQUIRED. Before a permit under this Chapter is issued, each person subject to this Ordinance shall post with the City 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 to: (1) indemnify the city for any penalties or costs occasioned by the enforcement of this Chapter, and (2) 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 (1) year from the expiration of the permit.

3-10-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-10-1, 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.

3-10-9 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 3-10-3 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.

3-10-10 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.

3-10-11 REVOCATION OF PERMIT. The City Council, after notice and hearing, may revoke any permit issued under this Ordinance where the permittee, in the course of conducting his or her business, has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted his or her business in an unlawful manner.

TITLE III COMMUNITY PROTECTION

CHAPTER 11 RAILROAD REGULATION

3-11-1 Definitions	3-11-4 Street Crossing Obstructions
3-11-2 Warning Signals	3-11-5 Maintenance of Crossings
3-11-3 Street Crossing Signs and Devices	3-11-6 Flying Switches

3-11-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. The term "railroad train" shall mean any steam, electric or other motor driven engine and the cars, if any, coupled to the engine operated on rails. The term does not include interurbans, light rail and street cars.

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

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

3-11-2 WARNING SIGNALS. Operators shall sound a bell at least 1,000 feet before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least 1,000 feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the City limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 3-11-5 of this chapter.

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

3-11-3 STREET CROSSING SIGNS AND DEVICES. Operators shall erect and maintain non-mechanical warning signs on both sides of the tracks at each intersection of the tracks and a street, sidewalk, alley or similar public crossing within the City limits, except where some mechanical sign, signal, device, or gate or flagman is required by resolution of the Council. Such non-mechanical signs shall be of a height and size, and utilize such lettering as to give adequate warning of such crossing. Whenever the City Council shall deem it necessary for the safety and convenience of the public that some mechanical sign, signal, device or gate should be erected and maintained, flagman stationed at any street or other public crossing, the City Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, or gate or to station a flagman at such crossing at the expense of such company or companies. Any required flagman shall be stationed at such crossing during the periods of time of each day that the City Council shall designate. The resolution shall specify the street or other public crossing at which the sign, signal, device or gate shall be erected or flagman stationed. After the resolution has been adopted, a copy shall be served on the railroad company or companies with a notice of the time limit for compliance. In complying, Chapter 327G of the Code of Iowa shall prevail.

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

3-11-4 STREET CROSSING OBSTRUCTIONS. A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten (10) minutes except in any of the following circumstances:

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

1. When necessary to comply with signals affecting the safety of the movement of trains;
2. When necessary to avoid striking an object or person on the track;
3. When the train is disabled; or
4. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations;

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

3-11-5 MAINTENANCE OF CROSSINGS. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

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

3-11-6 FLYING SWITCHES. No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning of such railroad car's or railroad cars' approach.

TITLE III COMMUNITY PROTECTION

CHAPTER 12 SEX OFFENDER RESIDENCY

3-12-1 Purpose	3-12-5 Violations
3-12-2 Definitions	3-12-6 Severability Clause
3-12-3 Residency Restricted	3-12-7 Effective Date
3-12-4 Residency Exceptions	

3-12-1 PURPOSE. This chapter is a regulatory measure aimed at protecting the health and safety of children in Anita from the risk that convicted sex offenders may re-offend in locations close to their residences. As recognized by the Eighth Circuit United States Court of Appeals in its April 29, 2005 decision of *Doe v. Miller*, and as recognized by the Iowa Supreme Court in *State v. Seering*, decided on July 29, 2005, the city finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate of play in public places in addition to the protections afforded by state law near schools and day care centers. The city finds and declares that in addition to schools and daycare centers, children congregate or play at public parks, swimming pools, multi-use recreational trails, and libraries, School bus Stops, and other places children regularly congregate.

3-12-2 DEFINITIONS. For the purpose of this ordinance the following shall be defined as shown herein:

1. Sex Offender- A person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor as set out in Chapter 692A of the Code of Iowa.

2. Corporate City Limits- That area comprised and defined by the City of Anita, Code of Ordinances current and future.

3. "Aggravated offense" means a conviction for any of the following offenses:

a Sexual abuse in the first degree in violation of Iowa Code section 709.2

b Sexual abuse in the second degree in violation of Iowa Code section 709.3

c Sexual abuse in the third degree in violation of Iowa Code section 709.4

d Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.

e Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11

f Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph “d”.

g Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

h Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

i Criminal transmission of human immunodeficiency virus in violation of Iowa Code section 709C.1, subsection 1, paragraph “a”.

j Any amendments, additions, alterations or new Iowa Code Sections that are similar in intent to those listed above.

4. “Criminal offense against a minor” means any of the following criminal offenses or conduct:

a Kidnapping of minor, except for the kidnapping of a minor in the third degree committed by a parent.

b False imprisonment of a minor, except if committed by a parent.

c Any indictable offense involving sexual conduct directed toward a minor.

d Solicitation of a minor to engage in an illegal sex act.

e Use of a minor in a sexual performance.

f Solicitation of minor to practice prostitution.

g Any indictable offense against a minor involving sexual contact with the minor.

h An attempt to commit an offense enumerated in this subsection.

i Incest committed against a minor.

j Dissemination and exhibition of obscene material to minors in violation of Iowa Code section 728.2.

k Admitting minors to premises where obscene material is exhibited in violation of Iowa Code section 728.3.

l Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph “b”, subparagraph 93), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.

- m Sexual exploitation of a minor in violation of Iowa Code section 728.12.
 - n Enticing away a minor in violation of Iowa Code section 710.10, subsection 1.
 - o An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (n).
 - p Any amendments, additions, alterations or new Iowa Code Sections that are similar in intent to those listed above.
5. “Person” means a person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.
6. “Residence” means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.
7. “Sexually violent offense” means any of the following indictable offenses:
- a Sexual abuse as defined under Iowa Code Section 709.1.
 - b Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
 - c Sexual misconduct with offenders in violation of Iowa Code section 709.16.
 - d Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
 - e A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (d) if committed in this state.
8. “Other relevant offense” means any of the following offenses:
- a Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.
 - b Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.
 - c Indecent exposure in violation of Iowa Code section 709.9.
 - d Incest committed against a dependent adult as defined in Iowa Code section 235B.2 in violation of Iowa Code section 726.2.

e A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (d) if committed in this state.

3-12-3 RESIDENCY RESTRICTED. A sex Offender shall not reside within the corporate city limits of Anita.

3-12-4 RESIDENCY EXCEPTIONS. A person residing within the corporate city limits of Anita does not commit a violation of this chapter if any of the following apply:

- a The person is required to serve a sentence at a jail, prison, juvenile facility, or other correction institution or facility.
- b The person is subject to an order of commitment under chapter 229A of the Iowa Code.
- c The person was living at the residence in question prior to the effective date of this ordinance.
- d The person is a minor or a ward under a guardianship.

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-7	Impounding
4-1-2	License	4-1-8	Right to Kill an Unlicensed or Licensed Dog or Cat
4-1-3	Immunization	4-1-9	Dangerous Animals
4-1-4	At Large Prohibited	4-1-10	Keeping a Vicious Animal
4-1-5	Animal Nuisances	4-1-11	Commercial Breeder
4-1-6	Regulation of Farm Animals		

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

1. The term "dogs" shall mean animals of the canine species whether altered or not.
2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.
3. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.

4-1-2 **LICENSE.** Every owner of a dog over the age of six (6) months shall procure a dog license from the city clerk prior to April 1 of each year. The annual license fee shall be seven dollars and 50/100 (\$7.50) for each dog, and five dollars (\$5.00) for each cat.

Upon payment of the license fee, and providing proof of a current vaccination against rabies, the City Clerk-Treasurer shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog or cat. The City Clerk-Treasurer shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk-Treasurer shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog or cat for which the license is issued.

Any dog or cat found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

4-1-3 **IMMUNIZATION.** All dogs or cats six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It

shall be a violation of this ordinance for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog or cat when not confined.

(Code of Iowa, Sec. 351.33)

4-1-4 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

4-1-5 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner;

2. Causes unsanitary, dangerous, or offensive conditions; or

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals.

(Code of Iowa, Sec. 657.1(1))

Animals shall be considered a nuisance if more than two cats or two dogs are maintained within one property.

4-1-6 REGULATION OF FARM ANIMALS.

1. No person, firm, association or corporation in the City of Anita shall have in their possession or control, or keep or harbor any farm animals, as defined in Section 4-1-1, without having first obtained a permit to do so from the mayor or his designee, which permit shall be issued only after payment of the required fee and after inspection of the premises by the mayor or his designee for compliance with the requirements of the zoning ordinance, and the sanitation requirements of this chapter or any other applicable state or local law. A permit for the keeping of farm animals shall be in effect for one year from the date of its issuance.

2. Application for such permits shall be made upon forms furnished by the city.

3. Upon expiration, such permit may be renewed by any person, firm, association or corporation to whom it has been issued, by filing an application for a renewal thereof with the mayor or his designee upon forms to be provided by the city. Approval of the application for renewal of a permit shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with the Zoning Ordinance and amendments thereto, and the sanitation requirements of this chapter or any other applicable state or local law. Every permit so renewed shall be for a period of one year from and after the date of the renewal, and shall be subject to revocation in the same manner as the original permit.

4. Persons keeping canaries, doves, pigeons, parrots, parakeets, gerbils, hamsters, goldfish, tropical fish, or other similar small animals, caged or otherwise confined as household pets within a residence, shall be exempt from the permit requirements of this section.

5. In areas designated for agricultural purposes for the adopted land use plan of the city where farm animals are kept on property that exceeds five (5) acres in total area, no permits for keeping farm animals shall be required. However, no person, firm, association, or corporation keeping or harboring farm animals in such areas shall allow the animals to be closer than seventy-five feet to any residential dwelling.

4-1-7 IMPOUNDING.

1. Any animal found at large or any licensed 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. Due diligence shall be used to identify and notify the owner(s) of any animal found at large and impounded within two (2) days, and that upon payment of impoundment penalty fee of \$25.00 plus a kennel charge of \$10.00 per day, the animal will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of as provided in Section 717B.4 of the Code of Iowa.

3. Impounded animals may be recovered by the owner, upon proper identification, payment of impoundment penalty fee and kennel costs, the costs of vaccination if vaccination is required by Section 4-1-3, and neutering. If such animals are not claimed within seven (7) days after notice, they shall be disposed of as provided in Section 717B.4 of the Code of Iowa..

(Code of Iowa, Sec. 351.37)

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor.

(Code of Iowa, Sec. 351.39)

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

(Code of Iowa, Sec 351.39)

4-1-8 RIGHT TO KILL AN UNLICENSED OR LICENSED DOG OR CAT. It shall be lawful for any person to kill a dog, unlicensed, or licensed and wearing a collar with license tag attached, where such dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

(Code of Iowa, Sec. 351.27)

4-1-9 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; or

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

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

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.

b. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show.

4-1-9 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 so deemed 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.

4-1-10 COMMERCIAL BREEDER. Any person or firm wishing to raise animals within the corporate city limits shall apply to the city council in writing for a Commercial Breeder's License. The annual cost of said license shall be \$50.00, renewable at the first meeting in April. The application for license shall include a description of the type(s) of animal to be raised, their approximate and maximum numbers, a site description of the area where the animals shall be located and a description fo the facility or building the animals shall be kept. The owner shall state what actions will be taken to keep noise, odor and pestilence within reasonable levels. No animals shall be allowed within 75 feet of another residence. A license will not be issued without specific action on the part of the city council to be recorded in the official city minutes.

TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

CHAPTER 1 LIBRARY SERVICES

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

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

5-1-2 LIBRARY TRUSTEES. The board of trustees of the Anita Public Library, hereinafter referred to as the Board, consists of five (5) members. All board members shall be appointed by the mayor and approved by the city council.
(Code of Iowa, Sec. 392.5)

5-1-3 QUALIFICATIONS OF TRUSTEES. All of the members of the Board shall be bona fide citizens and residents of Iowa and all shall be over the age of eighteen (18).

5-1-4 ORGANIZATION OF THE BOARD.

1. Terms of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. One-third of the total number of Board members, or as near as possible, shall be appointed every two (2) years for the purpose of staggering the terms.
(Code of Iowa, Sec. 336.5)

2. Vacancies. The position of any trustee shall be declared vacant if said trustee moves permanently from their place of designation or if said trustee is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled by the City Council, and the new trustee shall fill out the unexpired term for which the appointment is made.
(Code of Iowa, Sec. 336.6)

3. Compensation. Trustees shall receive no compensation for their services.
(Code of Iowa, Sec. 336.7)

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

1. To meet and elect from its members a president, a secretary and such other officers as it deems necessary;
(Code of Iowa, Sec. 336.8(1))

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

(Code of Iowa, Sec. 336.8(2))

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

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

(Code of Iowa, Sec. 336.8(3))

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

(Code of Iowa, Sec. 336.8(4))

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

(Code of Iowa, Sec. 336.8(5))

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

(Code of Iowa, Sec. 336.8(6))

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

(Code of Iowa, Sec. 336.8(7))

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

(Code of Iowa, Sec. 336.8(8))

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

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

11. To keep a record of its proceedings;

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

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

(Iowa Code, Sec. 336.17)

14. To provide the city council with a monthly report, including the following information:

a. The number of hours worked by all library employees for the month and the hourly wage or salary paid each of them by the city,

b. Monthly library bills which are approved and paid by the board, and,

c. A budget analysis showing the annual budget by category and the amount remaining by category after the monthly bills are paid.

15. To prepare and publish a projected budget at the beginning or each fiscal year and an actual budget at the end of each fiscal year disclosing the balance of any and all library funds and accounts and the source and use of all funds.

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

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

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

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

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

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

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

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

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

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

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the city council from the general fund for the operation and maintenance of the library, and any revenue generated through the use of the library, shall be set aside in an account for the use by the board to pay for the operation of the library.

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 1 UTILITIES - SANITARY SYSTEM

6-1-1	Definitions	6-1-5	Use of the Public Sewers
6-1-2	Use of Public Sewers Required	6-1-6	Protection from Damage
6-1-3	Private Sewage Disposal	6-1-7	Powers and Authority to Inspectors
6-1-4	Building Sewers and Connections	6-1-8	Penalties

6-1-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

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

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

(Iowa Administrative Code, Sec. 567-69.3(1))

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

(Iowa Administrative Code, Sec. 567-69.3(1))

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. "Person" shall mean any individual, firm, company, association, society, corporation or group.

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

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely

under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

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

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

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

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

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

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

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

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

19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Anita or the Superintendent's authorized deputy, agent or representative.

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

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

6-1-2 USE OF PUBLIC SEWERS REQUIRED.

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

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

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or any other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

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

6-1-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-1-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system, the property owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the city at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seventy-two (72) hours of the receipt of notice by the Superintendent.

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

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-1-2(4), a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

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

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

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

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

6-1-4 BUILDING SEWERS AND CONNECTIONS.

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

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A connection and inspection fee of three hundred dollars (\$300.00) shall be paid to the city at the time the application is filed.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Anita and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Anita pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Anita and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building's sewers may be used in connection with new building's sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9.

a. Each connection to the public sewer shall be made to fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification for Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

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

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the

work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

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

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

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

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

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

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

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

6-1-5 USE OF THE PUBLIC SEWERS.

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.

Applications may be cancelled and/or sewer service discontinued by the city for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

- a. Misrepresentation in the application as to the property or fixtures to be serviced by the sanitary sewer system;
- b. Non-payment of bills; or
- c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

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

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

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

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

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

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

- e. Any water or wastes having: (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight; (2) containing more than 350 parts per million by weight, or suspended solids; or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary, in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (1) reduce the biochemical oxygen demand to 300 parts per million by weight; (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 approval is obtained in writing.

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

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

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

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

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

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

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

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

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

i. Materials which exert or cause:

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

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

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

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

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

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-1-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may require any one or all of the following:

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;

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-1-5(10) of this article.

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

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

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

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

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

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

6-1-6 PROTECTION FROM DAMAGE.

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

(Code of Iowa, Sec. 716.1)

6-1-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic,

paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

6-1-8 PENALTIES.

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

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 2 UTILITIES - SEWER RATES

- | | |
|-------------------------------------|--|
| 6-2-1 Sewer District Created | 6-2-6 Discontinuing Service, Fees |
| 6-2-2 Sewer System Defined | 6-2-7 Residential Rental Property |
| 6-2-3 Who Shall Pay Rent | 6-2-8 Customer Guarantee Deposits |
| 6-2-4 Normal Monthly Charges | 6-2-9 Rental Rates |
| 6-2-5 Billing, Penalty | |

6-2-1 SEWER DISTRICT CREATED. One sewer district is hereby created which includes all of the City of Anita, Iowa.

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

6-2-3 WHO SHALL PAY RENT. Every person, firm or corporation whose premises now or hereafter are directly or indirectly served by a connection to the city sewer system shall pay rent to the city at a rate and in the manner provided in Section 6-2-4.

(Code of Iowa, Sec. 384.84(1))

6-2-4 NORMAL MONTHLY CHARGES. For all contributors monthly sewer charges will be based on monthly water usage. If a commercial or industrial contributor has a consumptive collection system, the user charge for that contributor may be based on a wastewater meter installed and maintained at the contributor's expense, and in a manner acceptable to the city.

6-2-5 BILLING, PENALTY. Utility bills shall be due when rendered and shall become delinquent after the tenth (10th) of each month following the period for which service was provided and billed. Bills shall have a penalty of 1½ percent per month of the principal sum added after the twentieth (20th) of each month. Payment shall be made to the utilities clerk of the Anita Municipal Utilities.

(Code of Iowa, Sec. 384.84(1))

6-2-6 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period. The service to such owner or person so supplied with the utility shall be discontinued following the rules and regulations set forth by the Iowa Utilities Board or other appropriate agency.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any ordinance, a fee established and publicized by the Anita Municipal Utilities Board of Trustees, shall be paid to the utilities clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the

date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

(Code of Iowa, Sec. 384.84(2))

6-2-7 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for sewer service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for delinquent rates or charges after the landlord gives written notice to the city that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety days of sewer service is paid to the utility. Upon receipt, the utility shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the city shall return the deposit if the sewer service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a sewer service if the repair charges become delinquent.

(Code of Iowa, Sec. 384.84(2))

6-2-8 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay sewer bills rendered. Such deposit shall be one and the same as provided in Section 6-4-7, and shall be equal seventy-five (\$75.00) dollars for each premise served. Deposits of customers having established acceptable credit records for one (1) year shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the utilities clerk to require a new or larger deposit for the continuation of service.

(Code of Iowa, Sec. 384.84(1))

6-2-9 RENTAL RATES.

1. Each user shall pay for the services provided by the city based on use of the treatment works as determined by water meter(s) acceptable by the city.

2. For residential contributors, monthly user charges will be based on average monthly water usage during the months of January, February, and March. If a residential contributor has not established a January, February, and March average, the monthly user charge shall be the median charge of all other residential users.

For industrial and commercial contributors, user charges shall be based on water used during the current month. If a commercial or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the city.

3. The charge for sanitary sewer service in Anita shall be \$0.15 per 100 gallons of metered water used during the service period (month). The minimum charge per month for each connection shall be \$7.50.

4. For those contributors who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected. Said surcharge for operation and maintenance including replacement is:

\$0.473 per pound BOD

\$0.510 per pound SS

5. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall be as determined by the responsible wastewater systems superintendent and approved by the city council.

6. The user charge rates established in this article apply to all users, regardless of their location in regards to the city's treatment works.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 3 UTILITIES - WATER SYSTEM

- | | | | |
|--------------|--|---------------|--------------------------------|
| 6-3-1 | Enforcement | 6-3-7 | Water Supply Control |
| 6-3-2 | Adoption of State Plumbing Code | 6-3-8 | Making the Connection |
| 6-3-3 | License Required | 6-3-9 | Excavations |
| 6-3-4 | Mandatory Connections | 6-3-10 | Inspection and Approval |
| 6-3-5 | Permit | 6-3-11 | Completion by the City |
| 6-3-6 | Fee for Permit | 6-3-12 | Meter Accuracy and Test |

6-3-1 ENFORCEMENT. Management and control of the Anita Municipal Water System shall be vested in the Anita Municipal Utilities (AMU) Board of Trustees. The board and/or their designed, shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this city in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The board shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency, the board may make temporary rules for the protection of the system until due consideration by the board may be had. Any circumstances or conditions not covered by this ordinance will be determined by the AMU Board of Trustees.

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

6-3-2 ADOPTION OF STATE PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended by the AMU approved specification manual, which is hereby adopted. An AMU approved specifications manual will be available at the AMU office during regular working hours.

6-3-3 LICENSE REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this city. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the board. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the board meeting at which the plumber will be granted a hearing. At this board meeting, the Superintendent shall make a written report to the board stating the Superintendent's reasons for the suspension. The board, after a fair hearing, shall revoke the suspension or take further action that is necessary and proper.

6-3-4 MANDATORY CONNECTIONS. All residences and business establishments within the city limits intended or used for human habitation, occupancy or use shall be connected to the

public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

When a person, firm, or corporation has more than one water meter on a premise, each meter shall be read and billed separately. In cases where multiple businesses and/or residences are served by one meter, AMU may estimate a separate billing for each occupant. Two or more such services may be combined as one if the use by each entity is one of the following:

- a. short term (less than 30 days), or
- b. the units are occupied by the same person, firm, or corporation, and
- c. the occupancy and use of each unit being combined is similar in nature.

6-3-5 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work and the general uses of the water. No different or additional uses shall be allowed, except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after issuance of the permit. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

6-3-6 FEE FOR PERMIT. Before any permit is issued, the person making the application shall pay a fee to the Superintendent to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The fee shall be established by Resolution.

6-3-7 WATER SUPPLY CONTROL. The plumber making the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-8 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub. A connection fee of twenty dollars (\$20.00) for a residential or commercial water tap shall be paid to AMU at the time the application is filed.

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

6-3-9 EXCAVATIONS. Excavations to do work under this ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation, the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three (3) months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-3-10 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered. The Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

6-3-11 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the board shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

6-3-12 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. An unmetered water service may be allowed at AMU's discretion where such metering is not economically feasible, or when such water usage may be readily calculated. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in

writing. If it is found that such meter overruns to the extent of _____ percent or more, the cost of the tests shall be paid by the board and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than _____ months. If the meter is found to be accurate or slow, less than _____ percent fast, the patron shall pay the reasonable costs of the tests.

1. Compulsory Check. Every meter shall be removed from service at least once each _____ years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of _____ percent shall not be returned to service until properly adjusted.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 4 UTILITIES – WATER RATES

6-4-1 Utility Defined	6-4-5 Discontinuing Services, Fees
6-4-2 Districts	6-4-6 Residential Rental Property
6-4-3 Disposition of Fees and Charges	6-4-7 Customer Guarantee Deposits
6-4-4 Billing, Penalty	6-4-8 Water Rates

6-4-1 UTILITY DEFINED. For use in this chapter, utility is the water system operated by the Anita Municipal Utilities (AMU) Board of Trustees.

6-4-2 DISTRICTS. There shall be one water district which encompasses all of the City of Anita, Iowa.

6-4-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited by the board, or its authorized representative within three (3) regular business days of when it was received and a written report of the amount and source of the fees and charges shall be on file with the utilities clerk.

6-4-4 BILLING, PENALTY. Utility bills shall due when rendered and shall become delinquent after the tenth (10th) of each month following the period for which service was provided and billed. Bills shall have a penalty of 1½ percent per month of the principal sum added after the twentieth (20th) of each month. Payment shall be made to the utilities clerk of the Anita Municipal Utilities.

(Code of Iowa, Sec. 384.84(1))

6-4-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued following the rules of the Iowa Utilities Board or other appropriate agency.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any ordinance, a fee set by the board of trustees shall be paid to the utilities clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

(Code of Iowa, Sec. 384.84(2))

6-4-6 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the landlord gives written notice to the city that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the utility. Upon receipt, the city shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for

charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the city shall return the deposit within ten (10) days if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

A lien shall not be certified to the county treasurer for collection unless prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

(Code of Iowa, Sec. 384.84(3))

6-4-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits as set forth by the board of trustees shall be required of all customers of the municipal water system.

(Code of Iowa, Sec. 384.84(1))

6-4-8 WATER RATES. Water shall be furnished at the appropriate rate schedule as set by the board of trustees.

All water passing through the water meter shall be charged for at the standard rate. If a meter fails to register, or to register correctly, AMU may order the meter repaired or replaced and AMU shall determine the approximate amount of water consumed and to be paid for by the customer.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 6 UTILITIES - REFUSE COLLECTION

6-6-1	Definitions	6-6-6	Necessity of Permits
6-6-2	Duty to Provide Cans	6-6-7	Burning of Refuse
6-6-3	Administration	6-6-8	Refuse Other Than Garbage
6-6-4	Storage	6-6-9	Separation of Yard Waste Required
6-6-5	Collections		

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

1. "Refuse". Includes all garbage, rubbish, ashes or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.
2. "Garbage". Includes all animal, fruit, vegetable and other refuse resulting from the preparation of food and drink.
3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.
4. "Can". Shall mean a container for the storage of garbage or rubbish, which is:
 - a. Provided with a handle and tight fitting cover;
 - b. Made of non-corrosive material;.
 - c. Water-tight; and
 - d. With a capacity of no more than thirty-five (35) gallons.
5. "Yard Waste". Includes any debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, garden waste, shrubs, etc.) which is produced as part of yard and garden development and maintenance.

6-6-2 DUTY TO PROVIDE CANS. Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be readily accessible to the collector.

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

6-6-3 ADMINISTRATION. Administration of this Chapter shall be by the mayor, or such employee designated by the mayor. (Code of Iowa, Sec. 372.13(4))

6-6-4 STORAGE. All garbage must be drained and that garbage accumulated from dwellings must be wrapped in paper and placed in a can. All rubbish shall be placed in a can except as otherwise provided.

6-6-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the city council may require.

6-6-6 NECESSITY OF PERMIT. No person shall collect garbage or rubbish unless by contract or permit approved by the city council and issued by the city clerk.

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the city and a permit has been issued by the city clerk.

6-6-7 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish or refuse within the city except by permission of the city council.

2. This section shall not apply to any incinerator operated under a license granted by the city or any burning conducted under the direction of the fire department for training purposes.

3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

6-6-8 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse, other than garbage and rubbish, accumulation on any premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-6-9 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on premises or placed in degradable bags, containers, or packages and sent out for collection.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 7 STREET CUTS AND EXCAVATIONS

6-7-1 Excavation Permit Required
6-7-2 Application for Permit
6-7-3 Permit Fees

6-7-4 Safety Measures
6-7-5 Backfilling and Restoration
6-7-6 Rules and Regulations

6-7-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-7-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the city clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the city of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six (6) hours after receipt unless the city clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the city and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The city clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this ordinance.

6-7-3 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding one hundred (100) feet in length. An additional fee of \$15.00 shall be required for every additional one hundred (100) feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained.

6-7-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if, in the judgment of the Chief of Police, the public safety requires it. Compliance with city ordinances and regulations shall not be deemed to waive the requirements that the party

excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the city.

6-7-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with city specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight (48) hours of the completion of the underground work, the city reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the city specifications, the City of Anita is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-7-6 RULES AND REGULATIONS. The city council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 8 SIDEWALK REGULATIONS

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

6-8-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct, or reconstruct sidewalks.

6-8-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

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

- 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; or

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

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

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

6-8-3 CLEANING SNOW AND ICE 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, Secs. 364.12(2)(b) & (e))

6-8-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement, or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

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

6-8-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this ordinance and in the event an action is brought against the city for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the city may notify in writing the abutting property owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the city believes that the person notified is liable to it for any judgment rendered against the city, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the city against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the city to the plaintiff in the first named action, and as to the amount of the damage or injury. The city may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the city in the suit.

(Code of Iowa, Sec. 364.14)

6-8-6 ORDERING SIDEWALK IMPROVEMENTS. The city council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall state that the property owner may request a hearing by the city council within fifteen (15) days or receipt of the notice.

6-8-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order work to proceed to repair, replace or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

The property owner may apply to the city through the City of Anita Sidewalk Improvement Program for replacing and/or installing new sidewalk. The property owner authorizes the city to remove the old sidewalk and to install a new concrete sidewalk. The property owner would also agree to pay the city for the new concrete within thirty (30) days after receiving the statement from the City Clerk, or the costs can be assessed to the property as taxes.

6-8-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to immediately notify the city in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-8-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the city council;
2. Sidewalks shall be on one-course construction;
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Street Superintendent;
4. The sidewalk bed shall be graded to the established grade;
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the

central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness;

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the city council shall establish a different distance due to the circumstances;

7. All elevations of sidewalks are to be established by the city council on a case-by-case basis;

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb; and

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the Disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the city, shall be performed under the supervision and inspection of the Street Superintendent, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-8-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements without first obtaining a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this Chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-8-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions and specifications of this Chapter, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this Chapter.

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

6-8-12 INSPECTION AND APPROVAL. Upon final completion, the Street Superintendent shall inspect the work and may order corrections if the work does not meet specifications. When the work meets all requirements of this Chapter, including specifications and obtaining a permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

6-8-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner and the lessee of the property.

6-8-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice or warning device provided by this Chapter.

6-8-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements and/or repair of sidewalks in the city according to the special assessment procedures established under Chapter 384, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-8-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this Chapter, the City Clerk shall send a notice 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 property 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 that the property owner may pay the amount assessed within thirty (30) days without interest or penalty. The notice shall also indicate that the property owner may object to such assessment and be given the date, time and place for which the property owner may come before the City Council to voice any such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-8-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-8-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the City 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 the City Council, not exceeding ten (10), in the same manner and at the same interest rates as for special assessments pursuant to Chapter 384, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the City Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 9 FLOOD PLAIN MANAGEMENT

6-9-1 Statutory Authority, Findings of Fact and Purpose	6-9-4 Administration
6-9-2 General Provisions	6-9-5 Nonconforming Uses
6-9-3 Flood Plain Management Standards	6-9-6 Penalties for Violation
	6-9-7 Amendments
	6-9-8 Definitions

6-9-1 Statutory Authority, Findings of Fact and Purpose.

1. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact

a. The flood hazard areas of the City of Anita are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

b. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

1. Statement of Purpose. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Anita and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section I-B-1 of this Ordinance with provisions designed to:

a. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

b. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

c. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

d. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

6-9-2 General Provisions

1. **Lands to Which Ordinance Apply.** The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Anita. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map, Community Number 190048, dated 6/17/86 for the City of Anita, as amended, 8/3/98, which is hereby adopted and made a part of this Ordinance.

2. **Rules for Interpretation of Flood Hazard Boundaries.** The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, Mayor shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor in the enforcement or administration of this Ordinance.

3. **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

4. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

5. **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. **Warning and Disclaimer of Liability.** The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Anita or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

7. **Severability.** If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

6-9-3 Flood Plain Management Standards. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:

- a. Be consistent with the need to minimize flood damage.
- b. Use construction methods and practices that will minimize flood damage.
- c. Use construction materials and utility equipment that are resistant to flood damage.
- d. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on

exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

b. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

a. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

b. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems:

a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

c. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

d. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures

a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

b. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles

a. Recreational vehicles are exempt from the requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

b. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

6-9-4 Administration

1. Appointment, Duties and Responsibilities of Flood Plain Administrator

a. The Mayor is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

b. Duties of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.

(2) Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

(3) Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.

(4) Record and maintain a record of the elevation (in relation to National Geodetic Vertical datum) to which all new or substantially improved structures have been floodproofed.

(5) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

2. Flood Plain Development Permit

a. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

b. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Indication of the use or occupancy for which the proposed work is intended.

(4) Elevation of the 100-year flood.

(5) Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

c. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.

d. Construction and Use to be as Provided in Application and Plans - Flood Plain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

3. Variance

a. The City Council may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

b. Factors Upon Which the Decision of the Council Shall be Based - In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this Ordinance and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a flood plain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

(13) Such other factors which are relevant to the purpose of this Ordinance.

c. Conditions Attached to Variances - Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

(1) Modification of waste disposal and water supply facilities.

(2) Limitation of periods of use and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

(5) Floodproofing measures.

6-9-5 Nonconforming Uses

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

a. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

6-9-6 Penalties for Violation. Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than 30 days. Nothing herein contained prevent the city of City of Anita from taking such other lawful action as is necessary to prevent or remedy violation.

6-9-7 Amendments. The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

6-9-8 Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

2. BASEMENT - Any enclosed area of a building which has its floor or lowest level

below ground level (subgrade) on all sides. Also see "lowest floor."

3. DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure".

5. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by the community.

6. EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. FACTORY-BUILT HOME - Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. FACTORY-BUILT HOME PARK - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. FLOOD ELEVATION - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

11. FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. FLOOD PLAIN - Any land area susceptible to being inundated by water as a result of a flood.

13. FLOOD PLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

15. FLOODWAY - The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. FLOODWAY FRINGE - Those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. HISTORIC STRUCTURE - Any structure that is:

a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.

18. LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section IID1 of this Ordinance and

b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and

c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and

d. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a,b,c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of flood plain management regulations adopted by the community.

21. ONE HUNDRED (100) YEAR FLOOD - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

22. RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. SPECIAL FLOOD HAZARD AREA - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

24. START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built

home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

25. STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.

26. SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

27. SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

b. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after May 21, 1976 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

28. VARIANCE - A grant of relief by a community from the terms of the flood plain management regulations.

29. VIOLATION - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 10 BUILDING CODE

6-10-1 Short Title

6-10-2 Adoption

6-10-3 Amendments

6-10-4 Right of entry

6-10-1 SHORT TITLE. This chapter shall be known as the City of Anita, Iowa, Building Code and may be cited as such, and will be referred to herein as “this chapter”.

6-10-2 ADOPTION. Pursuant to published notice and public hearing, as required by law, the building code adopted is Uniform Building Code Edition, issued by the International Conference of Building Officials”. An official copy of the Uniform Building Code 2000 Edition, issued by the International Conference of Building Officials and a copy of this chapter is on file at the city hall. This chapter may be amended by resolution duly passed and carried by the city council.

6-10-3 AMENDMENTS. The following amendments, modifications, additions, and deletions to the Uniform Building Code 2000 Edition, issued by the International Conference of Building Officials, are hereby made.

6-10-4 RIGHT OF ENTRY. The clerk and their authorized representatives may enter any premises upon presentation of proof of authority for the purpose of inspecting any building at such times as may be reasonably necessary to protect the public health, safety, and welfare.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 11 BUILDING NUMBERING

6-11-1 Owner Requirements

6-11-2 Building Numbering Map

6-11-1 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the mayor. Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.

3. Failure to comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of ninety (90) days after being notified in writing by the city to do so, the city may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

6-11-2 BUILDING NUMBERING MAP. The city shall prepare and maintain a city-wide building numbering map.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 12 TREES

6-12-1 Purpose	6-12-8 Diseased Trees Subject to Removal
6-12-2 Definitions	6-12-9 Duty to Remove
6-12-3 Planting Restrictions	6-12-10 Inspection
6-12-4 Duty to Trim Trees	6-12-11 Removal from City Property
6-12-5 Assessment	6-12-12 Removal from Private Property
6-12-6 Trimming Trees to be Supervised	6-12-13 Commercial Tree Services
6-12-7 Removal of Trees	

6-12-1 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the city by regulating and providing for the planting, care and removal of trees.

6-12-2 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "Parking" shall mean that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

2. "Superintendent" shall mean the Superintendent of Public Works or such other person as may be designated by the city council.

3. "Street" as used herein shall refer to that portion of a platted street which is not covered by concrete, asphalt, gravel, or otherwise used for vehicular travel.

6-12-3 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking except in accordance with the following:

1. Permit. Before planting any tree on a street or parking, the owner shall obtain a permit from the office of the City Clerk.

2. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line or the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

3. Spacing. Trees shall not be planted on the parking if it is less than six (6) feet in width, or contains less than thirty-six (36) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.

4. Prohibited trees. No person shall hereinafter plant in any street, any fruit-bearing tree or any cotton bearing cottonwoods, poplars, boxelder, Siberian elm (Chinese elm), evergreens, silver maple, Russian Olive, mulberry trees or any thorn bearing trees.

6-12-4 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.

6-12-5 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring him to do so within five (5) days. If he fails to trim the trees within that time, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

6-12-6 TRIMMING TREES TO BE SUPERVISED. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the city.

6-12-7 REMOVAL OF TREES. The superintendent shall remove, on the order of the City Council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

6-12-8 DISEASED TREES SUBJECT TO REMOVAL. Diseased, dead, dying or injured trees within the city shall be removed as follows:

1. Living or Standing Trees. Any living or standing elm tree or part thereof infected with Dutch Elm Disease fungus or which harbors any of the elm bark beetles, which is *scolytus multistriatus* (eichb.) or *hylurgopinus rufipes* (marsh.).

2. Dead Trees. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

3. Injured or Dying Trees. Any tree which has been injured whether by disease or physical damage to the point that the tree will die, or its limbs might fall, shall be removed.

6-12-9 DUTY TO REMOVE. No person, firm or corporation shall permit any tree or material as defined in 6-12-8 to remain on the premises owned, controlled or occupied by such person, firm or corporation.

6-12-10 INSPECTION. The superintendent shall inspect or cause to be inspected all premises and places within the city to determine whether any condition as defined in Section 6-12-8 exists thereon, and shall also inspect or cause to be inspected any elm trees reported or suspected to be

infected with the Dutch Elm Disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles.

6-12-11 REMOVAL FROM CITY PROPERTY. If the superintendent upon inspection or examination, in person or by some qualified person acting for him, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property, within the city and that the danger of other elm trees within the city is imminent, he shall immediately cause it to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease or the insect pests or vectors known to carry such disease fungus.

6-12-12 REMOVAL FROM PRIVATE PROPERTY. If the superintendent upon inspection or examination, in person or by some qualified person acting for him, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises and that the danger to other elm trees within the city is imminent, he shall immediately notify by certified mail the owner, occupant or person in charge of such property, to correct such condition within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt thereof, the city council may cause the nuisance to be removed and the cost assessed against the property as provided in 3-2-10 of this code.

If the superintendent is unable to determine within reasonable certainty whether or not a tree on private premises is infected with Dutch Elm Disease, he is authorized to remove or cut specimens from said tree, and obtain a diagnosis thereof.

6-12-13 COMMERCIAL TREE SERVICES. Any person performing tree service, or any commercial tree service company working within the City of Wiotia must obtain a permit from the office of the City Clerk. To obtain a permit, the applicant must show proof of insurance and workman's compensation adequate for the protection of the citizens of the city and the city itself. Liability insurance shall be a minimum of \$300,000 for bodily injury and \$100,000 for property damage.

Comment [COMMENT1]: Do I want WITH or WITHOUT Zoning here?

TITLE VII SPECIAL ORDINANCES

CHAPTER 1 LOCAL OPTION SALES AND SERVICE TAX

7-1-1 Tax Rate

7-1-1 TAX RATE. A tax rate of one percent (1%) shall be imposed in conformance with Chapter 422B of the Code of Iowa upon local sales and services of the City of Anita, Iowa.

7-1-2 Revenue Allocation

7-1-2 REVENUE ALLOCATION. The revenues from the local sales and service tax are to be allocated in the City of Anita, Iowa, as follows:

- 50% Community Development
- 50% Infrastructure