

T I T L E 4
GENERAL PROVISIONS

SUBJECT	CHAPTER
ANIMAL REGULATIONS	1
KEEPING OF PIT BULL DOGS	2
HOTEL-MOTEL TAX	3
HUMAN RIGHTS ORDINANCE	4
SEWAGE RATE SYSTEM	5
SEWER USE REGULATIONS	6
URBAN RENEWAL	7
INDUSTRIAL TAX EXEMPTION	8
DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE DOWNTOWN AND INDUSTRIAL CONNECTOR URBAN RENEWAL AREA	9
DIVISION OF TAXES LEVIED ON TAXALBE PROPERTY IN THE HIGHWAY 38 NORTHEAST URBAN RENEWAL AREA	10
PROPERTY EXEMPT FROM TAXATION	11
URBAN REVITALIZATION AREA - PROGRESS PARK	12
URBAN REVITALIZATION AREA - DOWNTOWN	13
URBAN REVITALIZATION AREA - PARK AVENUE AREA	14
DIVISION OF TAXES ON TAXABLE PROPERTY IN 2003 ADDITION TO THE SOUTH END URBAN RENEWAL AREA	15
DIVISION OF TAXES ON TAXABLE PROPERTY IN NORTHEAST URBAN RENEWAL AREA	16

TITLE 4 GENERAL PROVISIONS

CHAPTER 1

ANIMAL REGULATIONS

SECTIONS:

- 4-1-1 Definitions
- 4-1-2 Vaccination and Identification Required
- 4-1-3 Registration and License
- 4-1-4 Commercial Breeders
- 4-1-5 Actions Constituting a Nuisance
- 4-1-6 At Large Prohibited
- 4-1-7 Impoundment, Notice, Disposition
- 4-1-8 Animal Care
- 4-1-9 Rabies Suspects and Animal Bites
- 4-1-10 Vicious Animals; Guard or Attack Dogs
- 4-1-11 Dogs in Heat
- 4-1-12 Keeping of Dangerous Animals
- 4-1-13 Seizure, Impoundment, and Disposition of Dangerous Animals
- 4-1-14 Penalties

4-1-1 Definitions. For use in this Ordinance, the following terms are defined:

- (A) "Dogs" means both male and female animals of the canine species whether altered or not.
- (B) "Animal" means dogs, cats, all domestic animals, and any other animal owned by a person.
- (C) "At large" means any animal found off the premises of his 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.

- (D) "Owner" means any person or persons, firm, association, or corporation owning, keeping, sheltering, or harboring an animal.
- (E) "Vicious animal" means any animal that bites or attacks human beings or other animals or in a vicious and terrorizing manner attacks, or approaches in apparent attitude of attack, a person upon the streets, sidewalks, or any other public ground or place or any private property other than the premises of the owner, possessor, or keeper of such animal, or a dog that runs after and bites or barks at horses, bicycles, or any vehicle being ridden or driven upon the streets, sidewalks, or any public ground or place within the City.
- (F) "Dangerous animals" means:
1. Any animal which is not naturally tame or gentle; 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.
 2. Any animal declared to be dangerous by the City Council.
 3. The following animals which shall be deemed to be dangerous animals per se:
 - (a) Lions, tigers, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;
 - (b) Wolves, coyotes, and foxes;
 - (c) 'Badgers, wolverines, weasels, and skunks;
 - (d) Raccoons;
 - (e) Bears;
 - (f) Monkeys and chimpanzees;
 - (g) Alligators and crocodiles;
 - (h) Scorpions;

- (i) Snakes that are venomous or constrictors;
 - (j) Gila monsters; and
 - (k) Any crossbreed of such animals which have similar characteristics to the animals specified above.
- (G) "Frequent and habitual" as referred to in Section 4-14(C) means at least three separate complaints within the neighborhood within a period of seventy-two (72) hours.
- (H) "Altered" means a neutered male dog or cat which has been rendered sterile by a surgical procedure (orchietomy), or a spayed female dog or cat which has been rendered sterile by a surgical procedure (ovariohysterectomy).
- (I) "Unaltered" means a dog or cat that has not been altered as defined in this section.
- (J) "Commercial Breeder" means an owner, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the owner. An owner who owns or harbors three or less breeding males or females is not a commercial breeder.

4-1-2 Vaccination and Identification Required.

- (A) All dogs and cats six (6) months or older shall be vaccinated against rabies. The owner of any dog or cat shall cause to be placed upon the neck of such dog or cat so owned, kept, or harbored, a collar made of durable material having attached thereto a durable tag showing that the dog or cat has a current rabies vaccination and a durable tag indicating the name of the animal, if any, the owner's name, current address and telephone number, if any, and the license tag as provided in Section 4-1-3 of the City Code of Muscatine. The collar with the attached tag shall be kept on such dog or cat at all times.

(B) All licensed veterinarians shall monthly furnish to the City Department of Finance and Records a list of those dogs and cats receiving rabies vaccinations or inoculations listing the name, address and telephone number of the owner securing the rabies vaccination or inoculation.

4-1-3 Registration and License.

(A) All dogs or cats six (6) months of age or older shall be registered by an owner who is 18 years of age or older and the owner, except owners of seeing-eye dogs or owners who are confined to a wheelchair who are exempt from paying the annual fee but shall register their dogs or cats, shall pay the annual fee to the City in the office of the Department of Finance and Records as set forth below. The license will be in full force and effect until the anniversary date of the rabies vaccination or inoculation of the animal and thereafter shall be renewable annually:

- 1. For an unaltered dog or cat \$25.00
 except for owners 65 years of age or
 older the annual fee is \$15.00
- 2. For an altered dog or cat \$ 5.00
 except for owners 65 years of age or
 older, the annual fee is \$ 3.00

It is the responsibility of the owner to furnish written proof that the dog or cat being registered is altered. Persons making a license renewal application received after thirty (30) calendar days of license expiration date shall pay as a penalty an additional sum of \$5.00.

(B) The provisions of this section shall not apply to dogs or cats in the custody of a veterinarian or animal shelter or animal rescuer or animal control officer or police officer or whose owners are nonresidents temporarily within the city for a period not exceeding thirty (30) calendar days.

(C) It shall be a violation of this section for any person to knowingly issue a check for which funds are insufficient or to stop payment on any check written in payment of fees contained in this section. Any license(s) or penalties paid for with such checks are, in the case of

- (B) No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse an animal.
- (C) No owner of an animal shall abandon such animal.
- (D) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.
- (E) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by a domestic animal, provided that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substance.
- (F) Owners of animals shall notify the U.S. Postal Service and utility companies when an "invisible fence" is in place in order to advise them of animals being kept on the premises of such owners and shall post a sign on the premises visible to the public indicating the presence of an "invisible fence". Proof of notification to the U.S. Postal Service and utility companies shall be filed with the City Clerk.

4-1-9 Rabies Suspects and Animal Bites. Any dog or cat which is suspected of having rabies, or which has bitten a person or other animal, shall be impounded and confined, either at the residence of the owner of said animal, or under the supervision of a licensed veterinarian, for observation. All fees for such impoundment and observation shall be the sole responsibility of the owner of such animal. Owners choosing to impound or confine animals at their residence shall complete a "Voluntary Animal Confinement Form" which shall be provided to them by the Animal Control Officer. At the completion of the fourteen (14) day confinement period, the owner shall present the confined animal along with the Animal Confinement Form to a licensed veterinarian. The veterinarian shall then examine the animal and complete the appropriate section of the Voluntary Animal Confinement Form. The owner of the animal shall then return this form to the Animal Control Officer.

- (A) Any dog or cat impounded under the provisions of this section shall be placed in a suitable facility and quarantined for a period of not less than fourteen (14) days at the sole expense of the owner.

- (B) Any such animal impounded under the provisions of this section shall be destroyed upon determination that such animal is infected with rabies.
- (C) It shall be the duty of the owner of any dog, cat, or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to the Animal Control Officer. It shall be the duty of physicians and veterinarians to report to the Animal Control Officer the existence of any animal known or suspected to be suffering from rabies.

4-1-10 Vicious Animals; Guard or Attack Dogs.

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

4-1-11 Dogs in Heat. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

4-1-12 Keeping of Dangerous Animals. No person shall keep or permit to be kept any dangerous animal as a pet nor for display or for exhibition purposes, whether gratuitously or for a fee, except that this prohibition shall not apply to the keeping of dangerous animals in a public zoo, public aquarium, 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; or for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show licensed to perform in the City; or in a bona fide licensed veterinary hospital for treatment. It shall be the duty of the persons permitted to keep dangerous animals under this section to immediately report to the Police Department when any dangerous animal is found missing.

4-1-13 Seizure, Impoundment, and Disposition of Dangerous Animals.

- (A) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, public waterway, lagoon, public sewer system, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the Chief of Police, or his or her designee, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
- (B) Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal on premises in the City in violation of this Chapter or who keeps a dangerous animal which has demonstrated a propensity to attack or bite without provocation, the Chief of Police, or his or her designee, shall cause the matter to be investigated, and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous animal in the City, the Chief of Police, or his or her designee, shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed under Section 4-1-11 of this Code to possess dangerous animals, or destroy the animal within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Chief of Police, or his or her designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

- (C) The order to remove a dangerous animal issued by the Chief of Police, or his or her designee, may be appealed to the City Council. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.
- (D) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled for the next regular Council meeting after receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the City Council may affirm or reverse the order of the Chief of Police, or his or her designee. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.
- (E) If the City Council affirms the action of the Chief of Police, or his or her designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal remove such animal from the City; permanently place such animal with an organization or group allowed under Section 4-1-11 to possess dangerous animals; or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the Chief of Police, or his or her designee, is not appealed or is not complied with within three (3) days of the order of the City Council after appeal has been served, the Chief of Police, or his or her designee, is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If, at the end of the impoundment period, the person against whom the decision and order of the Chief of Police, or his or her designee, or City Council was issued has not petitioned the Muscatine County District Court for a review of said order, the Chief of Police, or his or her designee, shall cause the animal to be disposed of by sale, permanently placing such animal with an organization or group allowed under Section 4-1-11 to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees shall be at the expense of the owner of the dangerous animal, which said fee shall be the actual cost of the feeding and care of the animal.

4-1-14 Penalties.

- (A) Any owner or person found guilty of violating the provisions of this Chapter shall be subject to the payment of a fine of \$50.00 upon the first conviction; payment of a fine of \$100.00 upon the second conviction unless the animal is altered within 30 days of the conviction, in which event the fine shall be \$50.00 and payment of a fine of \$100.00 or 30 days in jail upon the third and subsequent conviction and the animal shall be confined at the animal shelter until altered by a licensed veterinary at the expense of the owner. If the owner or person found guilty furnishes a written certificate or letter by a licensed veterinarian that the animal had been altered as defined in this chapter prior to the time of the violation, the fine for the first conviction shall be \$25.00, the fine for the second conviction shall be \$50.00 and for the third and subsequent conviction the fine shall be \$100.00 or confinement of the owner or person found guilty for 30 days in jail. No portion of the fines as provided in this Section shall be suspended by the court upon conviction.

- (B) Any owner or person charged with a first or second violation of this Chapter may present such summons at the Public Safety Building in the City of Muscatine and pay such fine without appearance in court, and upon payment of the fine, shall be deemed to have pleaded guilty to the offense charged. Nothing herein contained shall be construed to prohibit any person charged with a violation of this Chapter from contesting such charge. The provisions of this subsection shall not be applicable upon the filing of a complaint and summons for the third or subsequent violations of this Chapter.

4-1-15 Exemption for Police Service Dogs (K9s).

This chapter shall not apply to police service dogs (K9s) used by a law enforcement agency that is acting in the performance of its duties.

TITLE 4 GENERAL PROVISIONS

CHAPTER 2

KEEPING OF PIT BULL DOGS

SECTIONS:

- 4-2-1 Purpose
- 4-2-2 Keeping of Pit Bull Dogs Prohibited
- 4-2-3 Definition
- 4-2-4 Spayed or Neutered
- 4-2-5 Leash Requirement
- 4-2-6 Confinement
- 4-2-7 Confinement Indoors
- 4-2-8 Signs
- 4-2-9 Financial Responsibility
- 4-2-10 Identification Photographs and Microchips
- 4-2-11 Reporting Requirements
- 4-2-12 Sale or Transfer of Ownership Prohibited
- 4-2-13 Irrebuttable Presumptions
- 4-2-14 Failure to Comply
- 4-2-15 Violation - Penalty

4-2-1 Purpose. In order to protect the health, safety and welfare of the residents and citizens of the city, the provisions of this chapter are enacted by the City Council.

4-2-2 Keeping of Pit Bull Dogs Prohibited. It is unlawful to keep, harbor, own or in any way possess within the corporate limits of the city, any pit bull dogs; provided that pit bull dogs licensed with the city within thirty (30) days of the effective date of this chapter, August 1, 2003, may be kept within the city subject to the standards and requirements set forth in this chapter.

4-2-3 Definition. "Pit bull dog" is defined to mean a) Staffordshire terrier breed of dog; b) the American pit bull terrier breed of dog; c) the American Staffordshire terrier breed of dog; d) any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire terrier, American pit bull terrier, or American Staffordshire terrier.

4-2-4 Spayed or Neutered. All pit bull dogs shall be spayed or neutered within 60 days of the effective date of this chapter or by six months of age and a certificate that such dog has been spayed or neutered shall be filed with the city clerk.

4-2-5 Leash Requirement. No person shall permit a licensed pit bull dog to go outside its kennel or pen unless such dog is securely muzzled and leashed with a leash no longer than six feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, dog houses or buildings.

4-2-6 Confinement. All licensed pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine licensed pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor of solid construction (such as concrete) to prevent escape and to allow for proper cleaning, odor control and health of the dog, attached to the sides of the pen or the sides of the pen must be imbedded in the ground no less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately ventilated and kept in a clean and sanitary condition.

4-2-7 Confinement Indoors. No pit bull dog may be kept on a porch, patio or in a part of the house or structure that would allow the dog to exit such building on its own volition. In addition, no pit bull dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

4-2-8 Signs. All owners, keepers or harborers of licensed pit bull dogs within the city shall within ten days of the effective date of the ordinance codified in this chapter shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog, Pit Bull on Premises". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

4-2-9 Financial Responsibility. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the effective date of the ordinance codified in this chapter provide proof to the city clerk of financial responsibility in a single incident amount of \$50,000.00 for bodily injury to or death of any person or persons or for damages to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. The financial responsibility requirement of this section may be met by a homeowner's or tenant's insurance policy if such policy clearly and specifically provides coverage in the amounts required in this chapter. Such insurance policy shall provide that no cancellation of that policy will be made unless ten days written notice is first given to the city clerk of the city.

4-2-10 Identification Photographs and Microchips. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the effective date of the ordinance codified in this chapter provide to the city clerk proof that an identification microchip has been implanted between the shoulder blades of the pit bull dog and shall affix a tag to the collar on the dog indicating that a microchip has been implanted between the shoulder blades of the pit bull dog.

4-2-11 Reporting Requirements. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the incident, report the removal from the city or death of a licensed pit bull dog or the new address of a licensed pit bull dog owner should the owner move within the corporate limits of the city in writing to the city clerk.

4-2-12 Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a pit bull dog licensed with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the licensed owner of such dog; provided, that the licensed owner of a pit bull dog may sell or otherwise dispose of a licensed pit bull dog to persons who do not reside within the city.

4-2-13 Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog listed or registered with any kennel, association or public authority as a pit bull dog as defined in this chapter is in fact a dog subject to the requirements of this chapter.

4-2-14 Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog licensed with the city to fail to comply with the requirements and conditions set forth in this chapter. Any pit bull dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply shall result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

4-2-15 Violation – Penalty. Any person violating or permitting the violation of any provision of this chapter commits a municipal infraction and shall be subject to the civil penalty in the amount of \$300.00. In addition, the court shall order the license of the subject pit bull dog revoked and the dog removed from the city. Should the violator refuse to remove the dog from the city, the court shall find the violator in contempt and order the immediate confiscation and impoundment of the dog. Each day that a violation of this chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this chapter.

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TITLE 4 GENERAL PROVISIONS

CHAPTER 3

HOTEL - MOTEL TAX

SECTIONS:

- 4-3-1 Imposition of Tax
- 4-3-2 Definitions
- 4-3-3 Collection of Tax

4-3-1 Imposition of Tax. There is hereby imposed a hotel and motel tax of seven percent (7%) upon the gross receipts from the renting of any and all sleeping rooms, apartments, or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house, tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, within the City of Muscatine, Iowa.

4-3-2 Definitions. For purposes of this ordinance, "renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, sleeping quarters, or the use thereof. However, the tax imposed by this ordinance shall not apply to the gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

4-3-3 Collection of Tax. This ordinance shall become effective on April 1, 1992. However, this ordinance shall not become effective unless it is approved by a majority of those voting on the question at the time of the general election on November 5, 1991, in the City of Muscatine, Iowa.

CHAPTER 4

HUMAN RIGHTS ORDINANCE

SECTIONS:

- 4-4-1 Purposes
- 4-4-2 Construction
- 4-4-3 Definitions
- 4-4-4 Powers and Duties
- 4-4-5 Public Meetings, Records, and Confidentiality
- 4-4-6 Unfair Employment Practices
- 4-4-7 Unfair Practices - Accommodations or Services
- 4-4-8 Unfair or Discriminatory Practices - Housing
- 4-4-9 Unfair Credit Practices
- 4-4-10 Aiding or Abetting
- 4-4-11 Unfair or Discriminatory Practices - Education
- 4-4-12 Exceptions for Retirement, Health Insurance and Welfare Plans
- 4-4-13 Retaliation
- 4-4-14 Complaint Procedures
- 4-4-15 Conciliation
- 4-4-16 Public Hearing
- 4-4-17 Judicial Review
- 4-4-18 Sixty (60) Day Administrative Release
- 4-4-19 Severability

4-4-1 Purposes. The purposes of the City of Muscatine in enacting this Ordinance are:

- (A) To secure for all individuals within the City of Muscatine freedom from discrimination because of race, color, religion, creed, sex, national origin, age, marital status, familial status, political affiliation, or mental or physical disability in connection with employment, public accommodations, housing, credit, and education; and thereby protect the personal dignity of these individuals, to insure their full productive capacities, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individual citizens within the City of Muscatine.
- (B) To provide for the execution within the City of Muscatine of the policies embodied in the Iowa Civil Rights Act of 1965 as amended and in the Federal Civil Rights Act and to promote cooperation between the City of Muscatine and the State and Federal agencies enforcing those Acts; and

- (C) To provide, at the local level, a Commission on Human Rights dedicated to the following: effective enforcement of this Ordinance; service as a source of information to employers, laborers, business persons, employees, tenants, and other persons relative to various civil rights legislation and regulations; and active assistance to prevent and eliminate the effect of discriminatory practices.

4-4-2 Construction. This Ordinance shall be construed broadly to effectuate its purpose.

4-4-3 Definitions. Unless indicated otherwise in this Chapter, the following will define the listed words and phrases:

- (A) "Affirmative action" means a plan whereby a set of specific, result-oriented procedures are established and to which a "person" commits itself to apply every good faith effort to achieve. The objective of those procedures is to ensure equal opportunity in public and private employment, housing, public accommodations, credit transactions, education, and City contracts.
- (B) "Age" means chronological age of any person who has reached the age of eighteen (18) years or is considered to be an adult.
- (C) "Bona fide occupational qualification (BFOQ)" means discrimination on a prohibited basis is lawful only if it results from a "bona fide occupational qualification" essential to the normal operation of the employer's business or enterprise. The "BFOQ" exception will be interpreted narrowly and the burden of proving that a prohibited basis is a "BFOQ" rests upon the party seeking to rely upon the exception. Customer or employer preference or historical usage, tradition, or custom or stereotyped characterizations will not merit the exception.
- (D) "Commission" means the Commission on Human Rights created by the Ordinance.
- (E) "Complainant" means that person filing a complaint with the Commission.
- (F) "Contract" means any agreement which is awarded, let, procured, or entered into with, or on behalf of, the City or any awarding authority thereof.
- (G) "Contracting authority" means any City department, agency, Commission authority, board, or person, or any authorized employee, officer, or director of any of the foregoing, including any purchasing agent of the City who makes or enters into any contract agreement for the provision of any goods or services of any kind or nature whatsoever for and on behalf of the City.
- (H) "Court" means the district court in and for Muscatine County, Iowa or any judge or magistrate of said court if the court is not in session at that time.

- (I) "Disability" means the physical or mental condition of a person which constitutes a substantial handicap.
- (J) "Employee" means any person employed by an employer.
- (K) "Employer" means the City of Muscatine and any political subdivision, board, commission, department, or institution thereof, or school district therein, and every other person employing employees within the City.
- (L) "Familial status" means one or more individuals under the age of eighteen domiciled with one of the following:
1. a parent or another person having legal custody of the individual or individuals.
 2. the designee of a parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person.
 3. a person who is pregnant or is in the process of securing legal custody of the individual or individuals.
- (M) "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms, or conditions of employment.
- (N) "Marital Status" means the condition of being married, single, divorced, separated or widowed.
- (O) "Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, or receivers. It also includes but is not limited to any owner, lender, builder, manager, broker, sales person, agent, employee, or lending institution; and includes all political subdivisions and agencies of the City and any commission, authority, board, or other instrumentality of government.
- (P) "Political affiliation" means membership of or close association with a political party or organization.
- (Q) "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility, provided that any place, establishment, or facility that caters or offers services, facilities, or goods to nonmembers gratuitously shall be deemed a public accommodation if the accommodation receives any substantial governmental support or subsidy. Public accommodation shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or

facility caters or offers services, facilities, or goods to nonmembers for a fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

- (R) "Referral" means the process by which the Commission files a charge of discrimination with a referral agency which extinguishes the legal ability of the Commission to process said charge; provided, however, that the referral agency accepts the referred charge and that the Commission has the reciprocal right to accept or reject charges cross-filed by the referral agency.
- (S) "Respondent" means that person against whom a complaint has been filed with the Commission.
- (T) "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in the Ordinance.

4-4-4 Powers and Duties. The Commission shall have the following powers and duties:

- (A) To receive, investigate, and determine the merits of complaints alleging unfair or discriminatory practices.
- (B) To investigate and study the existence, character, causes, and extent of discrimination in public accommodations, employment, apprenticeship programs, on-the-job training programs, vocational schools, extension of credit, real estate, financial transactions, and housing in this City and to attempt the elimination of such discrimination by education, outreach, providing assistance, and conciliation.
- (C) To subpoena witnesses, books, papers, records, and any other real evidence necessary to the investigation of any complaint filed pursuant to this Ordinance.
 1. The Chairperson or his/her designee may issue subpoenas.
 2. Before a subpoena is sought to determine whether the agency should institute a contested case proceeding, the Commission shall make a request in written form of the person having possession of the requested material or real evidence. The written request shall be sent by certified mail, return receipt requested. Where a person fails to provide requested information, a subpoena may be issued. A subpoena may not be issued less than seven days after the written request has been mailed to the person having possession of the requested materials. Subpoenas may be issued without prior oral or written requests where notice of a pending public hearing has been issued.

3. Every subpoena shall state the name of the Commission, the purpose for which the subpoena is issued, and the name and address of the party on whose behalf it was issued.
 4. The subpoena shall be directed to a specific person, their attorney, or an officer, partner, or managing agent of any person who is not a natural person. The subpoena shall command that person to produce designated books, papers, or other real evidence under his/her control at a specified time and place. Where a public hearing has been scheduled, the subpoena may command the person to whom it is directed to attend and give testimony.
 5. The subpoena shall be served either by personal service, by an official authorized by law to serve subpoenas, or by delivery of a copy thereof to the person named therein.
 6. Where service is accomplished by personal service, proof of service will be by acknowledgement of receipt of the person served or by affidavit of the person serving the subpoena.
 7. Upon prompt petition by the person to whom the subpoena is addressed, the Chairperson or his/her designee may quash or modify a subpoena where it is demonstrated by the petitioner that reasonable cause exists to quash said subpoena.
 8. Where a party fails to respond to a subpoena, the Chairperson or his/her designee may authorize the filing of a petition for enforcement with the district court.
 9. Subsequent to notification to a respondent of the approval of a hearing upon the merits of a complaint, legal counsel, staff, and respondent may employ prehearing discovery measures set forth in the Iowa Administrative Procedure Act, in addition to oral interviews and informal requests for documents and other materials and information.
- (D) To hold hearings upon any complaint made against a person, an employer, an employment agency, or a labor organization, or the employees or members thereof; to subpoena witnesses and compel their attendance at such hearings; and to administer oaths and take the testimony of any person under oath. Such hearings may be held by the Commission or by any hearing officer appointed by the Commission.
- (E) To take the necessary remedial action, as is the judgment of the Commission, to carry out the purposes of the Chapter. For purposes of this subsection and pursuant to the provisions of this Chapter, "remedial action" includes, but is not limited to, the following:

1. Hiring, reinstatement, or upgrading.
2. Admission or restoration of individuals to programs, and admission to a public accommodation or an educational institution.
3. Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.
4. Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice which damages shall include, but are not limited to, actual damages, court cost, and reasonable attorney fees, and the issuance of an order requiring the respondent to cease and desist from said practice.
5. Reporting as to the manner of compliance.
6. Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the Commission and inclusion of notices in advertising material.
7. In addition to the remedies provided in the preceding provisions of this subsection, the Commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as in the judgment of the Commission will carry out the purposes of this section as follows:
 - (a) In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the Commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his/her employment, the Commission shall so certify to the licensing agency. Where the licensing agency derives all or part of its authority from this City, it shall be bound by the Commission's finding, unless it is reversed in the course of judicial review. In the case of such a municipal licensing agency, where such a certification has been made, the licensing agency may initiate licensee disciplinary procedures.
 - (b) In the case of a respondent who is found by the Commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the City or political

subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his/her employment, the Commission shall so certify to the contracting agency. Where the contracting agency fits within Section 3F, the finding of discrimination is binding on that contracting authority, unless the Commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review.

- (c) Upon receiving a certification made under this subsection, a contracting authority may take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with the provisions of this Ordinance; and assist the City and all agencies thereof to refrain from entering into further contracts.

8. The election of an affirmative order under paragraph 7 of this subsection shall not bar the election of affirmative remedies provided in paragraphs 1 through 6 of this subsection. The terms of a conciliation agreement reached with the respondent may require him/her to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action in the judgment of the Commission will carry out the purposes of this Chapter and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished as contempt by the court upon showing by the Commission of the violation at any time within six months of its occurrence. In all cases where a conciliation agreement is entered into, the Commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the Commission deems proper. At any time in its discretion, the Commission may investigate whether the terms of the agreement are being complied with by the respondent.

- (F) To seek a temporary injunction against a respondent when it appears that a complainant may suffer irreparable injury as a result of an alleged violation of this Ordinance. In the event said respondent is the recipient of or is engaged in any program activity through grants, loans, contracts, or insurance from any Federal or State Agency, the Commission shall seek to enjoin said Federal or State Agency, on a temporary basis, from further engagement with said respondent. A temporary injunction may only be issued ex parte, if the complaint filed with the Commission alleges discrimination in housing. In all other cases a temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard.

- (G) To issue such publications and reports of investigations and research as in the judgment of the Commission shall tend to promote good will among the various racial, religious, ethnic, and other groups within the City and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools, housing, or credit because of race, creed, color, sex, national origin, religion, familial status, marital status, political affiliation, physical or mental disability, or age.
- (H) To prepare and transmit to the Mayor and to the City Council from time to time, but not less often than once each year, reports describing its proceedings, investigations, hearings conducted and the outcome thereof, decisions rendered, and the other work performed by the Commission.
- (I) To make recommendations to the Mayor and City Council for such further legislation as may be necessary and desirable and to adopt, publish, amend, and rescind regulations consistent with and necessary for the enforcement of this Ordinance.
- (J) To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this Chapter and in the planning and conducting of programs designed to eliminate discrimination based on race, color, religion, creed, national origin, sex, familial status, marital status, political affiliation, physical or mental disability, or age.
- (K) To receive, administer, dispense, and account for any funds that may be voluntarily contributed to the Commission and any grants that may be awarded the Commission for furthering the purposes of this Chapter.
- (L) To enter into contracts with Federal and State Civil Rights agencies which would further the purposes of this Ordinance.
- (M) To hold not less than nine meetings per year at a time and place to be determined by the Commission.
- (N) To seek from the Equal Employment Opportunity Commission and the U.S. and Iowa Civil Rights Commission the designation as a deferral agency, which shall have legal precedence in all cases in its jurisdiction, except where otherwise agree or where a complainant requests in written form that the deferral agency not be notified.
- (O) To review and seek to enforce a positive Affirmative Action Plan for the City, and Fair Housing Programs as are necessitated by Federal/State regulations.

- (P) Assist all City contracting authorities in preparing equal employment opportunity and anti-discrimination provisions for contract specifications and advise them as to the compliance records of prospective contractors.
- (Q) To require that all contracts entered into on behalf of the City, and all subcontracts thereon, for which the consideration is in excess of ten thousand dollars (\$10,000) shall contain a non-discrimination clause barring discrimination in employment, and shall require that public notices contain the provisions set forth therein.

4-4-5 Public Meetings, Records, and Confidentiality.

- (R) In accordance with Chapter 28A of the Code of Iowa, all meetings of the Commission shall be public meetings except:
 1. The Commission may hold a closed session by affirmative vote of two-thirds (2/3) of its members present, the votes of such motion being recorded in the minutes by yeas and nays, when necessary to prevent irreparable and needless injury to the reputation of an individual whose employment or discharge is under consideration, but any motion decided in such session shall be voted on by yeas and nays and shall be recorded in the minutes as per subsection B.2 of this section.
 2. The Commission shall hold a closed session for consideration of any complaint of discrimination or report concerning investigation or conciliation of said complaint, as provided in this Ordinance.
- (B) All records of the Commission shall be public, except:
 1. Complaints of discrimination, reports of investigations, statements, and other documents or records obtained in investigation of any charge shall be closed records, unless public hearing is scheduled or district court action is commenced as provided in this Ordinance.
 2. The minutes of any session which is closed under the provisions of this Ordinance shall be closed records.
- (S) No member of the Commission or of its staff shall disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation, or persuasion, unless such disclosure is made in connection with the conduct of an investigation or after public hearing is scheduled or district court action is commenced upon a complaint filed as provided in this Ordinance. This section does not prevent any complainant, respondent, witness or other person from publicizing

the filing of a complaint or the matter therein complained of. Any violation of this section shall be punishable by a fine not to exceed one hundred dollars (\$100.00).

4-4-6 Unfair Employment Practices.

(A) It shall be an unfair or discriminatory practice for any:

1. Person to refuse to hire, accept, register, classify, or refer for employment; to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, national origin, religion, political affiliation, or disability of such applicant or employee, unless based upon the nature of the occupation. If a disabled person is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this section.
2. Labor organization or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member; or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the age, race, creed, color, sex, national origin, religion, or disability of such applicant or member.
3. Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, national origin, religion, or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation. If a disabled person is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discrimination practices prohibited by this section.

An employer, employment agency, or their employees, servants or agents may offer employment to only the disabled, when other applicants have available to them other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such employment or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex, or national origin.

4. Person to solicit or require as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or to affect the terms, conditions, or privileges of employment or terminate the employment of an employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus, is prohibited. The prohibitions of the subsection do not apply if the state epidemiologist determines and the director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services, that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.
- (B) Employment policies relating to pregnancy and childbirth shall be governed by the following:
1. A written or unwritten employment policy or practice which excludes from employment applicants or employees because of the employee's pregnancy is a prima facie violation of this chapter.
 2. Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to the employee's pregnancy or giving birth, on the same terms and conditions as they are applied to other temporary disabilities.
 3. Disabilities caused or contributed to by legal abortion and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any temporary disability or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the avail-

ability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to legal abortion on the same terms and conditions as they are applied to other temporary disabilities. The employer may elect to exclude health insurance coverage for abortion from a plan provided by the employer, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

4. An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy.
5. Where a leave is not available or a sufficient leave is not available under any health or temporary disability insurance or sick leave plan available in connection with employment, the employer of the pregnant employee shall not refuse to grant to the employee who is disabled by the pregnancy a leave of absence if the leave of absence is for the period that the employee is disabled because of the employee's pregnancy, childbirth, or related medical conditions, or for eight weeks, whichever is less. However, the employee must provide timely notice of the period of leave requested and the employer must approve any change in the period requested before the change is effective. Before granting the leave of absence, the employer may require that the employee's disability resulting from pregnancy be verified by medical certification stating that the employee is not able to reasonably perform the duties of employment.

(C) This section shall not apply to:

1. Any employer who regularly employs less than four (4) individuals. For the purposes of this subsection, individuals who are members of the employer's family shall not be counted as employees.
2. The employment of individuals for work within the home of the employer if the employer or members of his/her family reside therein during such employment.
3. The employment of individuals to render personal service to the person of the employer or members of his/her family.
4. Any bona fide religious institution or its educational facility, association, corporation, or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification.

5. This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless that person is considered by law to be an adult.
6. This section shall not apply to age discrimination in a bona fide apprenticeship employment program if the employee is over forty-five (45) years of age.
7. After a handicapped individual is employed, the employer shall not be required under this Chapter to promote or transfer such handicapped person to another job or occupation, unless, prior to such transfer, such handicapped person by training or experience is qualified for such job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as part of such agreement.

4-4-7 Unfair Practices - Accommodations or Services.

- (A) It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:
1. To refuse or deny to any person because of race, creed, color, sex, national origin, religion, or disability the accommodations, advantages, facilities, services, or privileges thereof; or otherwise to discriminate against any person because of race, creed, color, sex, national origin, religion, or disability in the furnishing of such accommodations, advantages, facilities, services, or privileges.
 2. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, national origin, religion, or disability is unwelcome, objectionable, not acceptable, or not solicited.
- (B) This section shall not apply to:
1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion, when such qualifications are related to a bona fide religious purpose.
 2. The rental or leasing to transient individuals of less than six (6) rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of his/her family reside therein.

4-4-8 Unfair or Discriminatory Practices - Housing. It shall be an unfair or discriminatory practice for any owner, or person acting for an owner of rights to housing or real property, with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents, or representatives by power of attorney or appointment, or any person acting under court order, deed, trust, or will:

- (A) To refuse to sell, rent, lease, assign, or sublease any real property or housing accommodation or part, portion, or interest therein to any person because of the race, color, creed, sex, religion, national origin, marital status, disability, or familial status of such person.
- (B) To discriminate against any person because of race, color, creed, sex, religion, national origin, marital status, disability, or familial status, in the terms, conditions, or privileges of the sale, rental, lease, assignment, or sublease of any real property or housing accommodations or any part, portion, or interest therein.
- (C) To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodations or any part, portion, or interest therein, by persons of any particular race, color, creed, sex, religion, national origin, marital status, disability, or familial status is unwelcome, objectionable, not acceptable, or not solicited.
- (D) To discriminate against the lessee or purchaser of any real estate or housing accommodation or part, portion, or interest of the real property or housing accommodation; or against any prospective lessee or purchaser of the property or accommodation because of the race, color, creed, religion, sex, disability, age, marital status, or national origin of persons who from time to time may be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives, or in any similar capacity.
- (E) The provisions of this section shall not apply to:
 - 1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, when such qualifications are related to a bona fide religious purpose.
 - 2. The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the owner or members of his/her family reside in one (1) of such housing accommodations.
 - 3. The rental or leasing of less than six (6) rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if he/she or members of his/her family reside therein.

4. Restrictions based on sex on the rental or leasing of such housing accommodations by non-profit corporations.
5. The rental or leasing of a housing accommodation within which residents of both sexes must share a common bathroom facility on the same floor of the building.
6. Housing accommodations provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program, and housing for older persons. As used in this subsection, "housing for older persons" means housing communities consisting of accommodations intended for either of the following:
 - (a) For ninety percent occupancy by at least one person fifty-five years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of such persons.
 - (b) For and occupied solely by persons sixty-two years of age and older.
7. The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the owner resides in one of the housing accommodations for which the owner qualifies for the homestead tax credit under section 425.1, Code of Iowa.

4-4-9 Unfair Credit Practices. It shall be an unfair or discriminatory practice for any:

- (A) Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.
- (B) Person authorized or licensed to do business in this state pursuant to Chapters 524, 533, 534, 536 or 536A, Code of Iowa, to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.
- (C) Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall

not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XX, Chapter 505 et. seq., Code of Iowa. The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this Chapter.

4-4-10 Aiding, abetting, or retaliation. It shall be an unfair or discriminatory practice for:

- (A) Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by the Chapter.
- (B) Any person to discriminate or retaliate against another person in any of the rights protected against discrimination on the basis of age, race, creed, color, sex, national origin, religion, or disability by this Chapter because such person has lawfully opposed any practice forbidden under this Chapter, obeys the provisions of this Chapter, or has filed a complaint, testified, or assisted in any proceeding under this Chapter.

4-4-11. Unfair or Discriminatory Practices - Education. It shall be an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, national origin, religion, or disability in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

- (A) Exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic program, extracurricular, research, occupational training, or other program or activity except athletic programs.
- (B) Denial of comparable opportunity in intramural and interscholastic athletic programs.
- (C) Discrimination among persons in employment and the conditions thereof.
- (D) On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

For the purpose of this section, "educational institution" includes any public preschool, or elementary, secondary, or community college, area education agency, or postsecondary college or university and their governing boards. Nothing in this section shall be construed to prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting any bona

fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

4-4-12 Exceptions for Retirement, Health Insurance and Welfare Plans.

- (A) The provisions of this Chapter relating to discrimination because of age do not apply to a retirement plan or benefit system of an employer unless the plan or system is a mere subterfuge adopted for the purpose of evading this chapter.
- (B) However, a retirement plan or benefit system shall not require the involuntary retirement of a person under the age of seventy because of the person's age. This paragraph does not prohibit the following:
 - 1. The involuntary retirement of a person who has attained the age of sixty-five (65) and has for the two (2) prior years been employed in a bona fide executive or high policy-making position and who is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan of the employer which equals twenty-seven thousand dollars (\$27,000.00). This retirement benefit test may be adjusted according to the regulations prescribed by the United States Secretary of Labor pursuant to Public Law ninety-five dash two hundred fifty-six (95256), section three (3).
- (C) A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.
- (D) An employee welfare plan may provide life, disability, or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.

4-4-13 Retaliation.

- (A) It shall be an unfair or discriminatory practice for any person to discharge, harass, penalize, or otherwise retaliate against an individual because of that individual's attempt to secure compliance or aid in securing compliance with this Ordinance or the remedies provided thereunder.

- (B) It shall be an unfair or discriminatory practice for any person to discharge, harass, penalize, or otherwise retaliate with respect to employment, housing, public accommodations, or financial practices against any individual because of that individual's association with persons of a particular race, religion, creed, national origin, or sex.

4-4-14 Complaint Procedures.

- (A) A person claiming to be aggrieved by a discriminatory practice, his/her agent, the chairperson of the Commission, the City Attorney, or a non-profit organization with a purpose of combating discrimination may file with the Commission a written complaint stating that a discriminatory practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the Commission to identify the person charged (hereinafter the respondent). One or more members of the Commission, as appointed by the Chairperson, or the person or agency which the City and Commission has approved to do so, may investigate the allegations of discriminatory practice set forth in the complaint or may refer the matter to the Iowa Civil Rights Commission, and shall promptly furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged discriminatory practice occurs. A complaint filed with the Iowa Civil Rights Commission under the provisions of the Iowa Civil Rights Act shall be sufficient for the purposes of the Chapter, if it alleges discriminatory acts within this City.
- (B) If it is determined after investigation that no probable cause exists for such complaint, the Commission shall forthwith notify the complainant and the respondent of such determination and the cause shall be closed with the Commission.
- (C) If it determined after investigation that probable cause exists crediting the allegations of the complaint, the Commission shall promptly proceed with conciliation.
- (D) The Commission shall notify the Iowa Civil Rights Commission whenever a finding of probable cause or no probable cause has been made with respect to any case within their jurisdiction or whenever such case is otherwise closed.
- (E) The complaint may be amended at any time prior to the scheduling of the complaint for a public hearing, and thereafter, only upon the consent of the person or persons conducting the hearing. Such leave shall be freely given when justice so requires.

4-4-15 Conciliation.

- (A) Prior to a finding of probable cause, the person investigating the complaint may enter into the conciliation process with the respondent at the respondent's request where the investigation has been sufficient for the investigator to determine adequate remedies for the alleged discrimination.
- (B) After a finding of probable cause, the respondent shall be promptly notified in writing of the finding and shall be informed of his/her right to conciliate. The notification shall further contain a suggested place, date, and time for the conciliation meeting.
- (C) Where the conciliation results in an agreement between the complainant, the respondent, and the Commission, the agreement shall be in writing and shall be signed by the complainant, the respondent or his/her representatives, and by the Chairperson of the Commission.
- (D) If, after attempts to conciliate, the person(s) directed to conciliate shall find that conciliation efforts have failed, such failure shall be reported in writing to the Commission. If the Commission determines the charge to be well founded, the Commission will promptly schedule the matter for public hearing. If the Commission determines the charge not to be well founded, the Chairperson shall declare the case closed and shall so notify the Iowa Civil Rights Commission of the failure of conciliation efforts and of the action taken.

4-4-16 Public Hearing.

- (A) After the Commission determines to take a complaint to public hearing, it shall serve on the respondent by registered or certified mail not less than 20 days before the date of hearing a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer orally or in writing the allegations of the complaint and to appear at a hearing before the Commission or a hearing officer at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the Iowa Civil Rights Commission, and such other public officers and such other persons as the Commission deems proper.
- (B) The notice shall include:
 - 1. A statement of the time, place, and nature of the hearing.
 - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - 3. A reference to the particular sections of the Ordinance and rules involved.
 - 4. A short and plain statement of the matters asserted.

- (C) The hearing will be conducted by the Commission or by a hearing officer appointed by the Commission.
- (D) No person shall take part in the conducting of the hearing who has any personal interests in its outcome or who has taken part on the investigation of the complaint or taken a position as to whether discrimination occurred with respect to the matter in question. No Commissioner who would be disqualified under the above criteria shall take part in any vote or discussion by the Commission respecting the complaint.
- (E) If a party fails to appear in a contested case proceeding after proper service or notice, the person(s) conducting the hearing may proceed and make a decision in the absence of the party.
- (F) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense. The case for the Commission may be presented by any member of the Commission staff or by an attorney from the City Attorney's office. The hearing need not be bound by the strict rules of evidence, but the admission of evidence should be based on sound discretion.
- (G) The record in a case shall include:
1. All pleadings, motions, and intermediate rulings.
 2. All evidence received or considered and all other submissions.
 3. A statement of all matter officially noticed.
 4. All questions and offers of proof, objections, and rulings thereon.
 5. All proposed findings and exceptions.
- (H) Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the Commission for at least five (5) years from the date of decision. Notice of public hearing shall be disseminated among local news media at least five (5) days prior to the date of the hearing.
- (I) Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.
- (J) The person(s) conducting the hearing will make written findings of fact and conclusions of law, will state in writing their determination as to whether or not the respondent discriminated against the complainant, and their recommended disposition, including remedies provided under Section 4F of this Ordinance.

- (K) If the decision under Section J is made by a hearing officer, the Commission shall vote as to whether to adopt, modify, or overrule the written findings and proposed remedies. Their decision shall be by a majority of those present and voting. Thereupon, the Commission shall issue a ruling, either incorporating the proposed findings and remedies as its own or stating the Commission's decision, including separate findings and remedies. For the purposes of Section 16, the date of mailing shall be considered the date of the Commission's decision.

4-4-17 Judicial Review.

- (A) Any complainant or respondent claiming to be aggrieved by a final order of the Commission, including a refusal to issue an order, may obtain judicial review thereof and the Commission may obtain an order of court for the enforcement of Commission orders in a proceeding as provided in this section.
- (B) An enforcement proceeding brought by the Commission shall be brought in the Iowa District Court for Muscatine County.
- (C) Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon the Commission shall file with the court a transcript of the record of the hearing before it. The court shall have the power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the Commission, in whole or in part.
- (D) An objection that has not been urged before the Commission shall not be considered by the court in an enforcement proceeding, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.
- (E) If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the Commission under this section, the Commission may obtain an order of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the Commission and resides or transacts business within the county in which the petition for enforcement is brought.
- (F) An aggrieved party of record may obtain judicial review by filing a petition for judicial review in the Iowa District Court for Muscatine County within thirty (30) days after the Commission has issued or refused to issue a final order.
- (G) The petition shall name the Commission as a respondent and shall contain a concise statement of:

1. The nature of the Commission action which is the subject of the petition.
 2. The particular action appealed from.
 3. The grounds on which relief is sought.
 4. The relief sought.
- (H) Service of the petition shall be made as required in Section 17A.19, Code of Iowa.
- (I) Where a party files a petition for judicial review, the Commission shall file with the court a transcript of the record of the hearing before it.
- (J) The court shall not itself hear further evidence with respect to the issues of fact, however, the court may remand the case to the Commission for the taking of further evidence upon application by any party, a showing of materiality, and that there was good cause for failing to present such evidence before the Commission in the original proceeding. The Commission may modify its findings and decision by reason of additional evidence and shall file that evidence and any modifications, new findings, or decision with the court and mail copies to all parties.
- (K) The court may affirm the Commission's action or remand to the Commission for further proceedings. The court shall reverse, modify, or grant any other appropriate relief if substantial rights of the petitioner have been prejudiced because the Commission action is:
1. In violation of constitutional or statutory law or the provisions of this Ordinance.
 2. In excess of the Commission's authority.
 3. In violation of any Commission rule.
 4. Unsupported by substantial evidence.
 5. Unreasonable, arbitrary or capricious, or an abuse of discretion.
 6. Affected by any other error of law.
- (L) Appeal from the district court may be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

4-4-18 Sixty (60) Day Administrative Release.

- (A) A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the Commission in accordance with this Ordinance. A complainant, after the proper filing of a complaint with the Commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:
1. The complainant has timely filed the complaint with the Commission as provided in the Ordinance; and

2. The complaint has been on file with the Commission for at least sixty (60) days and the Commission has issued a release to the complainant pursuant to subsection B of this section.
- (B) Upon a request by the complainant and after the expiration of sixty (60) days from the timely filing of a complaint with the Commission, the Commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint or a conciliation agreement has been executed; or the Commission has served notice of hearing upon the respondent pursuant to this Ordinance.
- (C) An action authorized under this section is barred unless commenced within ninety (90) days after the issuance by the Commission of a release under subsection B of this section. If a complainant obtains a release from the Commission under subsection B of this section, the Commission shall be barred from further action on that complaint.

4-4-19 Severability. If any section, provision, or part of this Chapter shall be adjudged to be invalid or unconstitutional, this adjudication shall not effect the validity of the Chapter as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

TITLE 4 GENERAL PROVISIONS

CHAPTER 5

SEWAGE RATE SYSTEM

SECTIONS:

- 4-5-1 Purpose
- 4-5-2 Definitions
- 4-5-3 Analytical Requirements
- 4-5-4 Unit Rates
- 4-5-5 Sewerage Rate System
- 4-5-6 General Provisions
- 4-5-7 Collection

4-5-1 Purpose. The City of Muscatine, hereinafter called the "City", has undertaken to construct, expand, and operate a publicly owned treatment works (POTW) consisting of interceptor and trunk sewers, pumping stations, pressure pipe transmission mains, and secondary waste water treatment facilities to provide adequate and proper treatment of sewage and wastewater generated from all properties within the corporate limits of the City and to maintain required compliance with federal and state regulations.

The City has issued sewer revenue and general obligation bonds to finance construction of said publicly owned treatment works and is obligated to repay the bond principals and interest and maintain bond reserve funds, hereinafter called "fixed capital financing".

The City must collect revenues to operate and maintain expenses of said publicly owned treatment works including anticipated replacement expenses, hereinafter called "user charges".

4-5-2 Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance:

- (A) 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 twenty degrees centigrade (20°C.), expressed in terms of mass and concentration (milligrams per liter (mg/l)).
- (B) Domestic Strength Wastewater Customer. Shall mean a customer whose wastewater strength approximates an average daily concentration of two hundred fifty milligrams per liter (250 mg/l) BOD and an average daily concentration of two hundred fifty milligrams per liter (250 mg/l) SS, or less but does not exceed an average daily standard strength units of a customer class 1 as defined in 4-5-5(A).

- (C) Industrial User (I.U.) or User. The source of non-domestic waste. The source of any direct or indirect discharge.
- (D) Significant Industrial User (S.I.G.). Shall apply to: a) industrial users subject to categorical pretreatment standards; and b) any other industrial user that i) discharges an average of 25,000 gpd or more of process wastewater, ii) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, iii) is designated as significant by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (E) Operation and Maintenance Expenses. Shall mean those expenses incurred in the collection, pumping, and treatment of wastewater in the POTW of the City of Muscatine.
- (F) Replacement Expenses. Shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the publicly owned treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (G) Suspended Solids (SS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- (H) Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.
- (I) Wastewater. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (J) Collection and Drainage Expenses. Shall mean those expenses incurred in the collection and conveyance of wastewater through the collection and drainage system of the City of Muscatine.

4-5-3 Analytical Requirements All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the Iowa Department of Natural Resources proficient in the analysis of wastewater.

(A) Sampling and Analytical Fees. The shall adopt by resolution, and publish per Section 362.3 of the Iowa Code reasonable charges and fees for sampling and analytical services which will be assessed to all users that the City is required to monitor as a requirement of a State or Federal Permit, the City's Pretreatment Program or that the City monitor as a requirement of a State or Federal Permit, the City's Pretreatment Program or that the City monitors to assess user charges. Such fees shall be periodically reviewed and adjusted as required.

(B) Sampling and Analytical Fee Schedule.

Sampler Placement \$15/day
 Trip Charge \$15/day
 Sampler Rental \$47/day
 Sampler Repair and Servicing \$25/hr.

pH	\$ 5	Hexavalent Chromium	\$26
Biochemical Oxygen Demand (BOD)	\$18	Ammonia	\$14
Chemical Oxygen Demand (COD)	\$13	Cyanide	\$32
Non-Filterable Residue (TSS)	\$12	Volatile Organic Acids (VOA)	\$19
Total Residue (TS)	\$12	Alkalinity	\$19
Volatile Non-Filterable Residue (TVSS)	\$12	Oil & Grease Total	\$30
Volatile Total Residue (TVS)	\$12	Oil & Grease, Animal	\$30
Total Dissolved Solids (TDS)	\$12	Oil & Grease, Petroleum	\$30
Settleable Solids	\$ 5	Phenols	\$25
Total Kjeldahl Nitrogen (TKN)	\$16	Phosphate, Ortho or Total	\$25
Arsenic by VGA	\$40	Glutaraldehyde	\$30
Selenium by VGA	\$40	Mercury by Cold Vapor	\$33
Metals by Acetylene/Air Flame AA*	\$19		
Metals by Acetylene/Nitrous Oxide Flame AA**		\$20	
Metals by Graphite Furnace AA***	\$17		

Acetylene/Air Flame AA Metals* Cadmium, Copper, Iron, Lead, Nickel, Potassium, Sodium, Silver, Zinc

Acetylene/Nitrous Oxide Flame AA Metals** Aluminum, Barium, Chromium, Molybdenum

Graphite Furnace AA Metals*** Aluminum, Arsenic, Barium, Cadmium, Copper, Chromium, Iron, Lead, Molybdenum, Nickel, Selenium, Zinc.

4-5-4 Collection and Drainage. To provide for the recovery of costs associated with the operation of the collection and drainage, the following per bill charge shall be assessed to all users of the POTW, except for users provided by special agreement, on the following basis:

1. From July 1, 2006 through June 30, 2007, \$8.00 per bill.
2. From July 1, 2007 through June 30, 2008, \$8.50 per bill.
3. On and After July 1, 2008, \$9.25 per bill.

These unit rates may be reviewed and adjusted by Resolution adopted by the city council and published per Section 362.3 of the Iowa Code.

4-5-5 Sewage Rate Component.

(A) The sewage rate system shall be determined on the basis of a monthly customer charge and a sewer user charge for a domestic strength wastewater customer (Class 1 customer). The sewage rate components shall be as follows:

1. From July 1, 2003 through June 30, 2004:
 - (a) Customer charge, \$7.25 per bill
 - (b) Volume, \$1.42 per 100 cubic feet
2. From July 1, 2004 through June 30, 2005:
 - (a) Customer charge, \$7.25 per bill
 - (b) Volume, \$1.50 per 100 cubic feet.
3. From July 1, 2005 through June 30, 2006:
 - (a) Customer charge, \$7.25 per bill
 - (b) Volume, \$1.60 per 100 cubic feet
- 3A. On and after July 1, 2006:
 - (a) Customer charge, \$5.50 per bill
 - (b) Volume, \$1.70 per 100 cubic feet.

These sewage rate components may be reviewed and adjusted by Resolution adopted by the city council and published per Section 362.3 of the Iowa Code.

4. The minimum charge for service shall be determined based on the customer charge and the unit rate for up to a minimum quantity of three hundred (300) cubic feet per month of normal domestic strength wastewater. The minimum charge for service for each month or fraction thereof shall be:

From July 1, 2003 through June 30, 2004, \$11.51
 From July 1, 2004 through June 30, 2005, \$11.75
 From July 1, 2005 through June 30, 2006, \$12.05
 On and after July 1, 2006, \$10.60

The minimum charge for sewerage rates as set forth in this section shall be in addition to the per bill charge for collection and drainage as set forth in Section 4-5-4.

The minimum sewerage service charge shall apply to any individual, firm, institution or private corporation discharging waste, water or other liquid into the water pollution control facilities of the city, even though no water meter is installed upon his, her, or its premises.

These minimum charges for service may be reviewed and adjusted by Resolution adopted by the city council and published per Section 362.3 of the Iowa Code.

5. The sewerage user charge component in this section shall be applicable to all customers except those customers subject to a special agreement.

(B) Customer Class System.

1. All customers shall be considered a standard classification customer except those customers that are subject to a special agreement. All customers shall be considered non-monitored customers, except the Director of Water Pollution Control Plant may designate industrial users as monitored customers. Monitored customers shall be subject to the requirements for sampling and analytical testing in accordance with the schedule determined by the Director of Water Pollution Control Plant. Any monitored customer shall be subject to the charges for analytical requirements as set forth in Section 4-5-3.
2. The classification system defines the relative Water Pollution Control Facilities cost associated with the wastewater strength for each class. The user charge shall be calculated from metered water use times the sewerage rate stated in Section 4-5-5(A) per 100 cubic feet times the factor presented in the following table, plus the customer charge per bill and the collection and drainage charge as stated in Section 4-5-4.

Customer <u>Class</u>	Factor Times <u>Class 1 Rate</u>
1	1.00
2	1.22
3	1.38
4	1.55
5	1.71
6	1.87
7	2.50
8	3.00
9	4.00
10	5.00 or greater

3. The City Administrator of the City of Muscatine and Director of the Water Pollution Control Plant shall be responsible for assigning customer classes to each type of customer. Customer class assignments of users will be given to Muscatine Power and Water for implementation on the sewer user charges that are billed by Muscatine Power and Water. Customer class assignments shall be reviewed on an annual basis.
 4. For each customer designated as a Class 10, the City Administrator and the Director of the Water Pollution Control Plant shall establish the appropriate classification rate which shall be at a rate of 5.0 or greater.
- (C) Senior Discounts. A discount of \$1.00 per month shall be given to all metered dwellings where the customer as the occupant is a qualifying senior citizen sixty-five (65) years of age and older.
- (D) Summer Rates. User charges for Class 1 domestic residential users will be based on water usage during the winter quarter months of December, January and February of each year. Subsequent monthly sewer bills will be no more than 115% of the billed usage during the previous winter quarter. The City Administrator and the Director of the Water Pollution Control Plant will be responsible for implementing specific procedures in effecting this rate.

4-5-6 General Provisions.

- (A) The monthly service charges, rates, or rentals as specified in Sections 4-5-4 and 4-5-5 hereof, shall be increased by ten percent (10%) for all users of the treatment works who are located outside of the corporate limits of the City and who have been granted permission by the City to discharge to the POTW.
- (B) At the request of an industrial user and with the approval of the City Council, the City and customer may enter into a separate agreement that provides for sewer user charges. The agreement shall establish the charges that would otherwise be due and payable under the provisions of Section 4-5-4 and Section 4-5-5. Such agreement shall include provisions for the establishment of sewer user charge rates, the method of payment and the method of sampling and analytical analysis. The special agreement shall provide for the method of determining the sewer user charges provided the revenue generated under a special agreement shall not be less than the established rates for a Class 1 domestic customer.
- (C) Any customer may provide separate water and/or wastewater meters as approved by the Director of Water Pollution Control Department at his own expense to determine that volume of his total water usage which discharges to the Water Pollution Control Facilities.
- (D) The rates and classifications provided in this Ordinance shall be reviewed annually to determine that the same are fair and equitable and may be changed periodically at the discretion of the City Council.

- (E) The Director of Water Pollution Control and other authorized representatives of the Department of Water Pollution Control shall be entitled to access to the premises of any contributor in accordance with Chapter 6, Section 4-6-7.1 and 4-6-7.2.

4-5-7 Collection.

- (A) The City Council hereby delegates the billing of all sewer use charges except those subject to special agreements under the provisions of Section 4-5-6(B), users with separate wastewater meters and users without a water meter account with the Board of Water, Electric and Communications Trustees and the authority to accept payment of the same to the Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa, hereinafter referred to as "Board of Trustees", in accordance with the foregoing schedule and said schedule shall be certified by the Board of Trustees by the City.

As part of the duties delegated to the Board of Trustees, an accurate and complete record of such collections will be maintained and at least once each week, all funds so collected shall be deposited in a bank or banks specified by the Finance Director in the Sewer Rental Fund. The City Council authorizes that the Board of Trustees shall charge to the City a service charge for the cost of billing and collecting the sewerage rate system. As a part of the duties deleted to the Board of Trustees, an accurate and complete list of delinquent accounts shall be sent to the Finance Director on a monthly basis, in addition to regular monthly sewer revenue reports.

- (B) The City Council hereby delegates the billing of sewer use charges for those users subject to a special agreement under Section 4-5-6(B), users with separate wastewater meters and users without a water meter account with the Board of Trustees, and the authority to accept payment of same to the Finance Director of the City of Muscatine, Iowa.
- (C) The service charge, rate, or rental as provided in Section 4-5-5 hereof, shall be applied to the quantity of water used or wastewater discharged by each contributor of sewerage and other wastewater or liquid for each individual water or wastewater meter contributing to said Water Pollution Control Facility as determined by the monthly water or wastewater meter readings of Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa. Quantities of wastes originating from users with privately owned water supplies or unmetered water supplies will be determined to the satisfaction of the City at the expense of the owner of the system.
- (D) The service charge, rate, or rental herein established for all users, except those subject to a special agreement under Section 4-5-6(B), users with separate wastewater meters and users without a water meter account with the Board of Trustees shall be due and payable at the Office of Muscatine Power and Water of the City of Muscatine, Iowa, with the billing schedule for water service.

- (E) Unpaid service charges, rates, or rentals not paid within the billing schedule shall be delinquent. Such charges, rates, or rentals which are delinquent and unpaid on April 1 of any year may be certified by the Finance Director to the County Auditor of Muscatine County, Iowa, for collection in the same manner as taxes.
- (F) Unpaid service charges, rates, or rentals thirty (30) days past due will be assessed an interest penalty on the unpaid balance. This interest penalty will be as follows:

<u>Unpaid Balance</u>	<u>Interest Penalty</u>
\$0 - \$1,000	0% per month
Over \$1,000	1 1/2% per month

TITLE 4 GENERAL PROVISIONS

CHAPTER 6

SEWER USE REGULATIONS

SECTIONS:

- 4-6-1.0 General Provisions
- 4-6-1.1 Purpose & Policy
- 4-6-1.2 Administration
- 4-6-1.3 Definitions
- 4-6-1.4 Abbreviations

- 4-6-2.0 General Sewer Use Requirements
- 4-6-2.1 Use of POTW Required
- 4-6-2.2 Private Sewer Systems
- 4-6-2.3 Prohibited Discharge Standards
- 4-6-2.4 Federal Pretreatment Standards
- 4-6-2.5 State Requirements
- 4-6-2.6 Specific Pollutant Limitations
- 4-6-2.7 City's Right of Revision
- 4-6-2.8 Special Agreements
- 4-6-2.9 Dilution

- 4-6-3.0 Pretreatment of Wastewater
- 4-6-3.1 Pretreatment Facilities
- 4-6-3.2 Additional Pretreatment Measures
- 4-6-3.3 Accidental Discharge
- 4-6-3.4 Accidental Discharge/Slug Control Plans
- 4-6-3.5 Tenant Responsibility
- 4-6-3.6 Hauled Wastewater
- 4-6-3.7 Vandalism

- 4-6-4.0 Wastewater Discharge Permit Eligibility
- 4-6-4.1 Wastewater Survey
- 4-6-4.2 Wastewater Discharge Permit Requirement
- 4-6-4.3 Wastewater Discharge Permitting, Existing Connections
- 4-6-4.4 Wastewater Discharge Permitting, New Connections
- 4-6-4.5 Wastewater Discharge Permitting, Extra Jurisdictional Industrial Users
- 4-6-4.6 Wastewater Discharge Permit Application
- 4-6-4.7 Application Signatories and Certification
- 4-6-4.8 Wastewater Discharge Permit Decisions

- 4-6-5.0 Wastewater Discharge Permit
- 4-6-5.1 Wastewater Discharge Permit Duration
- 4-6-5.2 Wastewater Discharge Permit Contents
- 4-6-5.3 Wastewater Discharge Permit Appeals
- 4-6-5.4 Wastewater Discharge Permit Modification
- 4-6-5.5 Wastewater Discharge Permit Transfer
- 4-6-5.6 Wastewater Discharge Permit Revocation
- 4-6-5.7 Wastewater Discharge Permit Reissuance

- 4-6-6.0 Reporting Requirements
- 4-6-6.1 Baseline Monitoring Reports
- 4-6-6.2 Compliance Schedule Progress Report
- 4-6-6.3 Report on Compliance with Categorical Pretreatment Standard Deadline
- 4-6-6.4 Periodic Compliance Reports
- 4-6-6.5 Report of Changed Conditions
- 4-6-6.6 Reports of Potential Problem Discharges
- 4-6-6.7 Reports from Nonsignificant Industrial Users
- 4-6-6.8 Notice of Violation/Repeat Sampling and Reporting
- 4-6-6.9 Notification of the Discharge of Hazardous Waste
- 4-6-6.10 Analytical Requirements
- 4-6-6.11 Monitoring and Sample Collection Facilities
- 4-6-6.12 Timing of Reports
- 4-6-6.13 Record Keeping

- 4-6-7.0 Compliance Monitoring
- 4-6-7.1 Inspection and Sampling
- 4-6-7.2 Search Warrants

- 4-6-8.0 Confidential Information

- 4-6-9.0 Publication of Industrial Users in Significant Noncompliance

- 4-6-10.0 Administrative Enforcement Remedies
- 4-6-10.1 Notification of Violation
- 4-6-10.2 Consent Orders
- 4-6-10.3 Show Cause Hearing
- 4-6-10.4 Compliance Orders
- 4-6-10.5 Cease and Desist Orders
- 4-6-10.6 Administrative Fines
- 4-6-10.7 Emergency Suspensions
- 4-6-10.8 Termination of Discharge

- 4-6-11.0 Judicial Enforcement Remedies
- 4-6-11.1 Injunctive Relief
- 4-6-11.2 Civil Penalties
- 4-6-11.3 Criminal Prosecution
- 4-6-11.4 Remedies Nonexclusive

SECTIONS:

- 4-6-12.0 Supplemental Enforcement Actions
- 4-6-12.1 Performance Bonds
- 4-6-12.2 Liability Insurance
- 4-6-12.3 Water Supply Severance
- 4-6-12.4 Public Nuisance

- 4-6-13.0 Affirmative Defenses to Discharge Violations
- 4-6-13.1 Upset
- 4-6-13.2 General/Specific Prohibitions
- 4-6-13.3 Bypass

- 4-6-14.0 Surcharge Costs

- 4-6-15.0 Miscellaneous Provisions
- 4-6-15.1 Pretreatment Charges and Fees
- 4-6-15.2 Severability
- 4-6-15.3 Conflicts

- 4-6-16.0 Fats, Oils, and Grease Control
- 4-6-16.1 Scope and Purpose
- 4-6-16.2 Definitions
- 4-6-16.3 Grease Traps and Interceptors
- 4-6-16.4 Food Service Establishment Permitting Program
- 4-6-16.5 Grace Period
- 4-6-16.6 Fees
- 4-6-16.7 Schedule of Fees

TITLE 4 GENERAL PROVISIONS

CHAPTER 6

SEWER USE REGULATIONS

4-6-1.0 GENERAL PROVISIONS.

4-6-1.1 Purpose and Policy. This ordinance sets forth uniform requirements for users of the wastewater collection and wastewater treatment system of the City of Muscatine, Iowa and enables the City to comply with all applicable State and Federal laws including the Clean Water Act (1977) and the General Pretreatment Regulations (40 CFR 403). The objectives of this ordinance are:

- (A) To prevent the introduction of pollutants into the publicly owned treatment works (POTW) which will interfere with the operation of the system or to contaminate the sludges;
- (B) To prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into the receiving stream, atmosphere or otherwise be incompatible with the system;
- (C) To protect the personnel who may be affected by wastewater and sludge in the course of operating the POTW;
- (D) To ensure that the quality of the wastewater treatment plant sludges are maintained at a level to allow for its use, recycle, reclamation, or disposal in compliance with applicable statutes and regulations;
- (E) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and
- (F) To enable the City of Muscatine to comply with its NPDES permit conditions, sludge use and disposal, and any other State or Federal laws to which the POTW is subject.

This ordinance provides for the regulation of direct and indirect contributors to the POTW through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires users reporting, establishes administrative review procedures, and provides for the setting of fees for the equitable distribution of cost resulting from the program hereby established.

The provisions of this ordinance shall apply to all direct or indirect contributors to the wastewater collection and treatment system both in the City of Muscatine or by contract or agreement outside of the City of Muscatine.

4-6-1.2 Administration. Except as otherwise provided herein, the Director of the WPCP shall administer, implement and enforce the provisions of this ordinance. Any of the powers granted or duties delegated upon the Director of the WPCP, may be delegated by the Director of the WPCP to other city personnel.

4-6-1.3 Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- (A) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (B) Approval Authority. The Executive Director of the Iowa Department of Natural Resources is the Approval Authority.
- (C) Authorized Representative of the Industrial User.
1. If the industrial user is a corporation, authorized representative shall mean:
 - a. the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
 - b. the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 2. If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
 3. If the industrial user is a Federal, State or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

4. The individuals described in paragraphs 1-3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Muscatine.
- (D) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in terms of mass and concentration (milligrams per liter (mg/L)).
- (E) Building Sewer. The piped extension from the building drain to the public sewer or other place of disposal.
- (F) Carbonaceous Biochemical Oxygen Demand (CBOD). A quantitative measure of the amount of dissolved oxygen required for the biological oxidation of carbon-containing compounds in a sample.
- (G) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (H) City. The City of Muscatine, County of Muscatine, State of Iowa, or the City Council of Muscatine, Iowa.
- (I) Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- (J) Control Authority. The Director of the Water Pollution Control Plant (POTW) is the Control Authority.
- (K) Cooling Water. Water discharged from any use such as air conditioning cooling or refrigeration to which the only pollutant added is heat.
- (L) Director. The person designated by the City of Muscatine, Iowa, to direct the operation of the publicly owned treatment works (POTW) who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
- (M) Direct Discharge. The discharge of treated or untreated water directly into the waters of the State of Iowa.

- (N) Discharge or Indirect Discharge. The discharge or indirect discharge of any pollutant from any source (including holding tanks) regulated under Section 307 (b) or (c) of the Act (33 U.S.C. 1317) into the POTW.
- (N) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (P) Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- (Q) Grab Sample. A sample which is taken from a waste stream on a onetime basis without regard to the flow in the waste stream and without consideration of time.
- (R) Industrial User (I.U.) or User. The source of nondomestic waste. The source of any direct or indirect discharge.
- (S) Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources: 1) inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and 2) therefore is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.
- (T) Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, disease causing etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.
- (U) New Source.
1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
 3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin as part of a continuous on-site construction program; or
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (V) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

- (W) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (X) Pass Through. A discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).
- (Y) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State or local governmental entities.
- (Z) pH. A measure of the acidity or alkalinity of a substance expressed in standard units.
- (AA) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor).
- (BB) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (CC) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.
- (DD) Pretreatment Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.
- (EE) Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 4-6-2.3 of this ordinance.

- (FF) Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the State or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.
- (GG) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (HH) Sewage. Human excrement and gray water (household showers, dish washing operations, etc.)
- (II) Shall is mandatory. May is permissive.
- (JJ) Significant Industrial User. Shall apply to: a) industrial users subject to categorical pretreatment standards; and b) any other industrial user that i) discharges an average of 25,000 gpd or more of process wastewater, ii) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, iii) is designated as significant by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (KIC) Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 4-6-2.3 of this ordinance or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.
- (LL) Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget, 1972.
- (MM) Storm Sewer. A sewer which carries stormwater, surfacewater, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, non-contact cooling water, but excludes all pollutants, sewage or wastewater.
- (NN) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snow melt.
- (OO) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

- (PP) Toxic Pollutant. One of 129 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- (QQ) User. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.
- (RR) Wastewater. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (SS) Wastewater Treatment Plant or Water Pollution Control Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.
- (TT) Waters of the State. All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

4-6-1.4 Abbreviations. The following abbreviations shall have the designated meanings:

- (A) BOD - Biochemical Oxygen Demand
- (B) CBOD - Carbonaceous Biochemical Oxygen Demand
- (C) CFR - Code of Federal Regulations
- (D) COD - Chemical Oxygen Demand
- (E) EPA - U.S. Environmental Protection Agency
- (F) gpd - Gallons Per Day
- (G) L - Liter
- (H) mg - Milligrams
- (I) mg/L - Milligrams Per Liter
- (J) NPDES - National Pollutant Discharge Elimination System
- (K) O&M - Operation and Maintenance

4-6-1.4

4-6-2.1

- (L) POTW - Publicly Owned Treatment Works
- (M) RCRA - Resource Conservation and Recovery Act
- (N) SIC - Standard Industrial Classifications
- (O) SWDA - Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
- (P) TSS - Total Suspended Solids
- (Q) USC - United States Code
- (R) WPCP - Water Pollution Control Plant

4-6-2.0 GENERAL SEWER USE REQUIREMENTS

4-6-2.1 Use of POTW Required.

- (A) No unauthorized person shall uncover, make any connections with, or open into, use, alter, or disturb any public sewer or appurtenance thereof without obtaining a written permit from the City in accordance with Title 5, Chapter 15 of the City Code.
- (B) It shall be unlawful to discharge into any natural outlet within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.
- (C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, private vat, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- (D) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting 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 his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within ninety (90) days after the date of official notice to do so, provided that said public sewer is within two hundred fifty feet (250') of the property line.

- (E) All multiple stack connections shall be prohibited. Every structure within the City which is required to connect to the public sewer, as provided in Section 4-6-2.1(D), shall have an independent connection made or caused to be made at no expense to the City unless specifically approved in writing by the City.

4-6-2.2 Private Sewer Systems.

- (A) Where a public sanitary sewer is not available under the provisions of Section 4-6-2.1(D), the sewers as therein provided shall be connected to a private sewage disposal system complying with the provisions of this section.
- (B) No private sewage disposal system shall be constructed without first obtaining a permit to so construct in accordance with Title 5, Chapter 15 of the City Code.
- (C) Before issuance of a permit to construct a private sewage disposal system, the owner or applicant shall submit to the City plans, specifications, or other information as deemed necessary by the City. The fee for such a permit shall be in accordance with Title 5, Chapter 15 of the City Code. Any percolation test not made by City officials must be made and certified by a licensed engineer.
- (D) The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Iowa. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (E) In addition to complying with the provisions of this Code, all commercial and industrial facilities utilizing a private disposal system shall obtain a permit from the Iowa Department of Environmental Quality when employing more than fifteen (15) persons and/or discharging other than sanitary waste to the private disposal system.
- (F) At such time as a public sewer becomes available to a property serviced by a private sewage disposal system as provided in Section 4-6-2.1(D), a direct connection shall be made to the public sewer in compliance with this Chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- (G) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.
- (H) No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by any health officer.

4-6-2.3 Prohibited Discharge Standards. No user shall introduce or cause to be introduced either directly or indirectly into the POTW any pollutant or wastewater which will interfere with the operation or performance or cause pass through or interfere with the POTW. These prohibitions, both general and specific, apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State or local pretreatment standard or requirement. Furthermore, no user may contribute the following substances to the POTW:

- (A) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, and other flammable or explosive fuels.
- (B) Any wastewater having a pH less than 5.0 or more than 9.5, or otherwise causing corrosive damage to the POTW or equipment, or endangering City personnel.
- (C) Solid or viscous substances which may cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch (1/2") in any dimension. Included, but not limited to, bones, hide or fleshings, entrails, feathers, ashes, sand, spent lime, metal, glass, straw, shavings, grass clippings, diapers, rags, spent grains, wastepaper, wood, plastics, tar, asphalt, grease, or garbage.
- (D) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- (E) Any wastewater having a temperature greater than 150 degrees F (65.6 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 88 degrees F (31 degrees C).
- (F) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (G) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (H) Any trucked or hauled pollutants, except at discharge points designated by the City in accordance with Section 4-6-3.6.

- (I) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (J) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations.
- (K) Storm water, surface water, ground water, artesian well water, roof runoff, interior and exterior foundation drains, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Director.
- (L) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (M) Any medical wastes, except as specifically authorized by the Director in a wastewater discharge permit.
- (N) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (O) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- (P) Any wastewater causing the treatment plant's effluent to fail an effluent toxicity test, violate its NPDES permit or the receiving stream water quality standards.
- (Q) Any discharge of fats, oil, or grease of animal or vegetable origin is limited to 100 mg/L.

Wastes prohibited by this section shall not be stored or processed in such a manner that they could be discharged to the POTW. All floor drains located in such process or material storage areas must discharge to the users pretreatment facility before connecting to the POTW. When it is determined that a user or users are contributing to the POTW, any of the above listed substances in amounts to interfere with the proper operation of the POTW, the Director shall: 1) advise the user(s) of the impact on the POTW; and 2) develop a limitation for the user(s) to correct the interference on the POTW; or 3) proceed with remedies contained in Sections 4-6-10.0 through 4-6-12.0.

4-6-2.4 Federal Pretreatment Standards

- (A) The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- (B) Upon promulgation of Federal categorical pretreatment standards for a particular industry subcategory, the Federal Standard if more stringent than stated in this ordinance, shall immediately supersede the limitations imposed by this ordinance. The Director shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

4-6-2.5 State Requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements or limitations or those in this ordinance.

4-6-2.6 Specific Pollutant Limitations. Specific local limitations will be established by resolution and published per Section 362.3 of the Iowa Code. These local limits shall be periodically reviewed for any substance which would cause the POTW to be in noncompliance of the requirements of its NPDES permit, the receiving streams water quality standards, Federal or State sludge regulations, the City's Biosolids Recycle Program, the City's Pretreatment Program, or any other local, State or Federal regulations. Current limitations are hereby established as a composite loading of all users contributing the following specific pollutants to the POTW:

- (A) Not to exceed the following 30 day average mass loading in the influent to the POTW:

CBOD	67,500 lbs/day
TSS	67,500 lbs/day

- (B) Not to exceed the following respective loadings in the influent to the POTW:

Arsenic	1.38 lbs/day	Nickel	14.2 lbs/day
Cadmium	1.32 lbs/day	Selenium	1.22 lbs/day
Chromium	40.8 lbs/day	Zinc	94.6 lbs/day
Copper	50.7 lbs/day	Silver	509 lbs/day
Lead	10.1 lbs/day	Cyanide	2994 lbs/day
Mercury	0.57 lbs/day	Phenol	599 lbs/day
Molybdenum	0.61 lbs/day		

- (C) Any specific local pollutant limitation, including allocations contained in a wastewater discharge permit, may be adjusted by the Director as necessary to meet current composite loading limits or such composite loading limits that may become necessary as a result of changes in Federal, State or local regulation or POTW capacity.

4-6-2.7 City's Right of Revision. The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 4-6-1.1 of this ordinance or the general and specific prohibitions in Section 4-6-2.3 of this ordinance.

4-6-2.8 Special Agreements. The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

4-6-2.9 Dilution. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 4-6-3.0 PRETREATMENT OF WASTEWATER

4-6-3.1 Pretreatment Facilities. Industrial users shall provide the necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 4-6-2.3 above within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the industrial user's expense. Detailed plans and/or written description of the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The installation and activation of any required pretreatment facility shall be in accordance with a specified schedule approved by the City. The City may require regular progress reports of required changes to an industrial users pretreatment facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this ordinance.

4-6-3.2 Additional Pretreatment Measures

- (A) When deemed necessary, the Director may require users to restrict discharge during peak flow periods, designate certain wastewaters be discharged into specific sewers, or separate sewage waste streams from industrial waste streams. Suitable flow control and storage may be required to provide flow equalization and regulation.
- (B) Grease, oil and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand. Such interceptors shall not be required of residential users. All interceptor units shall be of a type and capacity approved by the Director and shall be located so as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired by the owner at his expense.
- (C) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

4-6-3.3 Accidental Discharge. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before construction. Such facilities shall be provided and maintained at the owner or user's own cost. Review and approval of such plans and procedures shall not relieve the user from any responsibility to modify the user's facility as necessary to meet the requirement of this ordinance. In the case of any accidental discharge or slug load, it is the responsibility of the user to immediately notify the POTW in accordance with Section 4-6-6.6 of this ordinance.

4-6-3.4 Accidental Discharge/Slug Control Plans. The Director may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years the Director shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

- (A) Description of discharge practices, including nonroutine batch discharges.
- (B) Description of stored chemicals.
- (C) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 4-6-2.3 of this ordinance.

- (D) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

4-6-3.5 Tenant Responsibility

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

4-6-3.6 Hauled Wastewater

- (A) Permitting Re^quirements In accordance with Section 4-6-4.2, effective Month XX, 199X, commercial septic tank cleaners must apply for and obtain a permit from the City of Muscatine Water Pollution Control Plant (WPCP) before disposing of septage or wastewater from any private waste facility or septic tank.

(B) Permitting Procedures

- (1) Application for permit Commercial septic tank cleaners shall apply for a permit by completing an application form provided by the City of Muscatine (WPCP) and submitting it to the Pretreatment Coordinator, Muscatine Water Pollution Control Plant, 1202 Musser Street, Muscatine, Iowa, 52761-1645. In the case of a commercial septic tank cleaner which is a corporation, partnership, association, or any other business entity, the entity itself must apply as provided in this ordinance. The entity shall designate one person in accordance with Section 4-6-1.3 (C) to act as its authorized representative for the purpose of applying for a permit. Individuals employed by a commercial septic tank cleaner business are not required to be permitted. Each cleaning unit (vehicle or tank) must have the state license and city permit number prominently displayed and a copy of the current state license and city permit with each vehicle.
- (2) Permit Fee The initial permit application and each renewal application must be accompanied by a nonrefundable fee in the form of a check or money order made payable to the City of Muscatine. The fee shall be determined annually by the Director.

- (3) Permit Renewal A commercial septic tank cleaner permit must be renewed annually by the expiration date specified on the permit. Renewal application must be made on an application form provided by the Muscatine WPCP, and must be received by the WPCP Pretreatment Coordinator or postmarked at least thirty (30) days prior to the expiration date. The renewal application form must be accompanied by the permit fee specified in Section 4-6-3.6 (B) (2).
- (4) Change in Ownership Within thirty (30) days of a change in ownership of any commercial septic tank cleaner the new owner shall furnish the Muscatine WPCP with the following information in writing: 1) name of business and permit number; 2) name, address, and telephone number of new owner; and 3) the date the change in ownership takes place. The permit will transfer with the ownership with no additional fee due until the next renewal date.
- (5) Suspension, Revocation, and Denial of Permit
- (a) The City may suspend, revoke, or deny a commercial septic tank cleaner permit for any of the following reasons:
- (1) Material misstatement of facts in a permit application.
 - (2) Failure to provide the adequate permit application fee.
 - (3) Failure to satisfy the obligations of a commercial septic tank cleaner and standards as provided in the Code of Iowa, Chapters 65, 69, and 121 and the Muscatine City Code, Section 4-6-3.6.
 - (4) Violations of disposal standards in Section 4-6-2.0 of this ordinance.
 - (5) Failure to maintain state commercial septic tank cleaner license.
- (6) Appeal A commercial septic tank cleaner may appeal the suspension, revocation, or denial of a permit under Section 4-6-5.3 of this ordinance.
- (7) Reinstatement In the case of a denial, revocation, or suspension pursuant to Section 4-6-3.6 (B) (5) (a) (2) or (3), the City may immediately reinstate or issue a permit after receipt of the requisite fee or confirmation that the commercial septic tank cleaner is fulfilling the requirements of this ordinance. In the case of a denial, revocation, or suspension pursuant to Section 4-6-3.6 (B) (5) (a) (1) or (4), the City may reinstate or issue a permit no sooner than sixty (60) days after the denial, revocation, or suspension, if the City is satisfied the commercial septic tank cleaner has corrected the deficiency and will comply with the City ordinances in the future.

(C) Standards for Discharge to the Muscatine Water Pollution Control Plant

- (1) Disposal of wastes from private waste facilities shall be carried out in accordance with the rules established by the Iowa Department of Natural Resources (IDNR), the Muscatine City Code and any such laws, regulations, standards, or requirements that may become effective.
- (a) Any tanks or equipment used for hauling from private waste facilities shall not be used for hauling hazardous or toxic wastes as defined in the Code of Iowa 567, Chapter 131, or other wastes detrimental to wastewater treatment plants; and shall not be used in a manner that would contaminate a potable water supply or endanger the food chain or public health.
 - (b) The name and address of the permit holder shall be prominently displayed on the side of the tank or vehicle.
 - (c) All vehicles shall display the state commercial septic tank cleaner license and city permit numbers assigned to the commercial septic tank cleaner on the vehicle as to be readable by WPCP electronic monitoring equipment.
 - (d) Waste from private sewage disposal systems, holding tanks for wastes, impervious vaults, portable or chemical toilets, or other similar types of private waste facilities may be disposed of by discharging, with proper approval, to the Muscatine Water Pollution Control Plant.
 - (e) Waste from private sewage disposal systems, holding tanks for wastes, impervious vaults, portable or chemical toilets, or other similar types of private waste facilities shall only be discharged at a designated structure within the treatment plant area, and only at such times as are established by the Director, provided such wastes do not violate any requirements established or adopted by the City.

Fees for discharging waste from private sewage disposal systems, holding tanks for wastes, impervious vaults, portable or chemical toilets, or other similar types of private waste facilities shall be established as part of the industrial user fee system as authorized in Section 4-6-15.0.

- (g) All vehicles shall be equipped with appropriate discharge equipment as to be compatible with the facilities provided at the Muscatine WPCP discharge station.

4-6-3.7 Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sections 4-6-10.0, 4-6-11.0, and 4-6-12.0.

SECTION 4-6-4.0 WASTEWATER DISCHARGE PERMIT ELIGIBILITY

4-6-4.1 Wastewater Survey. When requested by the Director all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the ordinance.

4-6-4.2 Wastewater Discharge Permit Requirement

- (A) It shall be unlawful for any significant industrial user to discharge wastewater into the City's POTW without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 4-6-10.0, 4-6-11.0, and 4-6-12.0. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local law.
- (B) The Director may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

4-6-4.3 Wastewater Discharge Permitting, Existing Connections. Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the City for a wastewater discharge permit in accordance with Section 4-6-4.6 below, and shall not cause or allow discharges to the POTW to continue after one hundred and eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Director.

4-6-4.4 Wastewater Discharge Permitting, New Connections. Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin.

4-6-4.5 Wastewater Discharge Permitting, Extra Jurisdictional Industrial Users

- (A) Any existing significant industrial user located beyond the City limits shall submit a wastewater discharge permit application, in accordance with Section 4-6-4.6 below, within ninety (90) days of the effective date of this ordinance. New significant industrial users located beyond the City limits shall submit such applications to the Director ninety (90) days prior to any proposed discharge into the POTW.

- (B) Alternately, the Director may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

4-6-4.6 Wastewater Discharge Permit Application. In order to be considered for a wastewater discharge permit, all users required to have a permit must submit an application, in the form required by the City, accompanied by the proper fee as set forth in Section 4-6-15.0. The application must contain the information required in Section 4-6-6.1(B) of this ordinance. In addition the following information shall be supplied:

- (A) Name, address, and location if different from address.
- (B) S.I.C. number according to the Standard Industrial Code Manual, Bureau of the Budget, amended 1972.
- (C) Wastewater constituents and characteristics including, but not limited to, those in Section 4-62.3 of this ordinance as determined by a certified laboratory. Sampling and analysis performed in accordance with Section 4-6-6.10 of this ordinance.
- (D) Number and type of employee and hours of operation of the facility including operation of a pretreatment facility.
- (E) Description of activities, facilities, and plant processes on the premises, including a list of raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (F) The current site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (G) Time and duration of the discharge to the POTW.
- (H) Average daily flows including fifteen (15) minute peak flows, and any daily, monthly or seasonal flow variations.
- (I) Where known, the nature and concentration of any pollutants in the discharge which are limited by the City, State or Federal Pretreatment Standards and a statement regarding whether or not pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet pretreatment standards.
- (J) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the applicant for revision.

4-6-4.7 Application Signatories and Certification. All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4-6-4.8 Wastewater Discharge Permit Decisions. The Director will evaluate the information supplied by the industrial user in the application for a wastewater discharge permit and may require additional information. After evaluation and acceptance of the information supplied, the Director shall determine whether or not to issue a wastewater discharge permit subject to the terms of this ordinance.

SECTION 4-6-5.0 WASTEWATER DISCHARGE PERMIT

4-6-5.1 Wastewater Discharge Permit Duration. Wastewater discharge permits shall be issued for a period less than, but not longer than, five (5) years. Each permit will indicate the specific time and date of expiration.

4-6-5.2 Wastewater Discharge Permit Contents. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

(A) Wastewater discharge permits must contain the following information:

1. A statement of duration not to exceed five (5) years.
2. A statement of nontransferability without prior notification to and approval from the Director and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
3. Effluent limits applicable to the user based on applicable standards in Federal, State, and local law.

4. Specifications for monitoring programs which include sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
5. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and, any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
6. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(B) Wastewater discharge permits may contain, but need not be limited to, the following:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
3. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated; or routine discharges.
5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
6. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW.
7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
8. Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

4-6-5.3 Wastewater Discharge Permit Appeals. Any person, including the industrial user, may petition the City to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- (A) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (B) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (C) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (D) If the City fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative action for purposes of judicial review.
- (E) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a petition with the Iowa District Court for Muscatine County within thirty (30) days of the decision.

4-6-5.4 Wastewater Discharge Permit Modification. The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (A) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
- (B) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- (C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (D) Information indicating that the permitted discharge poses a threat to the City's POTW, city personnel, or the receiving waters.
- (E) Violation of any terms or conditions of the wastewater discharge permit.
- (F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

- (H) To correct typographical or other errors in the wastewater discharge permit.
- (I) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

4-6-5.5 Wastewater Discharge Permit Transfer. Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner and/or operator which:

- (A) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.
- (B) Identifies the specific date on which the transfer is to occur.
- (C) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

4-6-5.6 Wastewater Discharge Permit Revocation. Wastewater discharge permits may be revoked for the following reasons:

- (A) Failure to notify the City of significant changes to the wastewater prior to the changed discharge.
- (B) Failure to provide prior notification to the City of changed conditions pursuant to Section 4-6-6.5.
- (C) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (D) Falsifying self-monitoring reports.
- (E) Tampering with monitoring equipment.
- (F) Refusing to allow the City timely access to the facility premises and records.
- (G) Failure to meet effluent limitations.
- (H) Failure to pay fines.

- (I) Failure to pay sewer charges.
- (J) Failure to meet compliance schedules.
- (K) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (L) Failure to provide advance notice of the transfer of a permitted facility.
- (M) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

4-6-5.7 Wastewater Discharge Permit Reissuance. A permitted industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with Section 4-6-4.6 a minimum of ninety (90) days prior to the expiration of the industrial user's existing wastewater discharge permit.

SECTION 4-6-6.0 REPORTING REQUIREMENTS

4-6-6.1 Baseline Monitoring Reports

- (A) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the City a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in paragraph B, below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (B) The industrial user shall submit the information required by this section including:
 1. Identifying Information. The name and address of the facility including the name of the owners, operator, and contact in direct responsible charge.
 2. Wastewater discharge permits. A list of any environmental control permits held by or for the facility.

3. Description of Operations. A brief description of the nature average rate of production, and standard industrial classifications (SIC number) of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
5. Measurement of Pollutants.
 - a. Identify the categorical pretreatment standards applicable to each regulated process.
 - b. Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 4-6-6.10.
 - c. Sampling must be performed in accordance with procedures set out in Section 4-6-6.11.
6. Certification. A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis--and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the industrial user will define the shortest schedule which will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 4-6-6.2 of this ordinance.
8. All baseline monitoring reports must be signed and certified in accordance with Section 4-6-4.7.

4-6-6.2 Compliance Schedule Progress Report. The following conditions shall apply to the schedule required by 4-6-6.1(B)(7). The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director.

4-6-6.3 Report on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the City a report containing the information described in Section 4-6-6.1(B)(4-6). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4-6-4.7.

4-6-6.4 Periodic Compliance Reports

- (A) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4-6-4.7.
- (B) All wastewater samples must be representative of the industrial user's discharge. Wastewater sampling, monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
- (C) If an industrial user subject to the reporting requirement in and of this Section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in Section 4-6-6.11 of this ordinance the results of this monitoring shall be included in the report.

4-6-6.5 Report of Changed Conditions. Each industrial user is required to notify the Director in writing of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days before the change.

- (A) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4-6-4.6.
- (B) The Director may issue a wastewater discharge permit under Section 4-6-4.8 or modify an existing wastewater discharge permit under Section 4-6-5.4.
- (C) No industrial user shall implement the planned changed conditions(s) until and unless the Director has responded to the industrial user's notice.
- (D) For purposes of this requirement flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

4-6-6.6 Reports of Potential Problem Discharges

- (A) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Section 4-6-2.3 of this ordinance), it is the responsibility of the industrial user to immediately telephone and notify the City of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- (B) Within five (5) days following the beginning of such discharge, the industrial user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to stop the discharge and to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- (C) Failure to notify the City of potential problem discharges shall be deemed a separate violation of this ordinance.
- (D) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

4-6-6.7 Reports from Nonsignificant Industrial Users. All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Director may require.

4-6-6.8 Notice of Violation/Repeat Sampling and Reporting. If sampling performed by an industrial user indicates a violation, the industrial user must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the POTW performs monitoring at the industrial user's at least once a month, or if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.

4-6-6.9 Notification of the Discharge of Hazardous Waste

- (A) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than ten (10) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 4-6-6.5, above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections 4-6-6.1, 4-6-6.3, and 4-6-6.4, above.
- (B) Dischargers are exempt from the requirements of paragraph (1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

- (C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (D) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

4-6-6.10 Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

4-6-6.11 Monitoring and Sample Collection Facilities

- (A) The Director may require any industrial user of the POTW to provide and operate at the user's expense, sampling or monitoring facilities to allow inspection sampling and flow measurement of a building sewer or any internal drainage system. The monitoring facility will normally be situated on the user's property, but the Director may, when such a location is impractical or would cause undue hardship, allow the facility to be located in a public street, right-of-way, or sidewalk, provided there is no safety hazards or interference with the normal use of the public area.
- (B) Except as indicated in Section C, below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (C) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- (D) The Director may use a grab sample(s) to determine noncompliance with pretreatment standards.

4-6-6.12 Timing of Reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

4-6-6.13 Record Keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the Director.

SECTION 4-6-7.0 COMPLIANCE MONITORING

4-6-7.1 Inspection and Sampling. The City shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the Director and/or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (A) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- (B) The City, State, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (C) The City may require the industrial user to install sampling and monitoring equipment. Such equipment and facilities shall be maintained at all times in safe and proper operating condition. All devices used to measure wastewater flow and quality shall be calibrated periodically, but at a minimum six (6) month interval. Calibration records shall be maintained with each instrument. The City may require additional calibration or repairs or replacement to assure accurate and continuous sampling and monitoring. All cost for installation, operation, calibration, and repair/replacement shall be at the industrial user's expense.
- (D) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the industrial user.
- (E) Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this ordinance.

4-6-7.2 Search Warrants. If the Director has been refused access to a building, structure or property or any part thereof, and if the Director has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program of the City designed to 4-6-7.2 (cont.) verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the City Attorney, the Magistrate of Muscatine County shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer of the City. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

SECTION 4-6-8.0 CONFIDENTIAL INFORMATION

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction--unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 4-6-9.0 PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

The City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of the wastewater measurements taken during a 6-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria [1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];

- (C) Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance;
- (H) Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 4-6-10.0 ADMINISTRATIVE ENFORCEMENT REMEDIES

4-6-10.1 Notification of Violation. Whenever the Director finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the Director or his agent may serve upon said user a written Notice of Violation. Within seven (7) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

4-6-10.2 Consent Orders. The Director is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to Sections 4-6-10.4 and 4-6-10.5 below and shall be judicially enforceable.

4-6-10.3 Show Cause Hearing. The Director may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the City and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

4-6-10.4 Compliance Orders. When the Director finds that a user has violated or continues to violate the ordinance, wastewater discharge permits or orders issued hereunder or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

4-6-10.5 Cease and Desist Orders. When the Director finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (A) Immediately comply with all requirements.
- (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

4-6-10.6 Administrative Fines.

- (A) Notwithstanding any other section of this ordinance, any user that is found to have violated any provision of this ordinance, its wastewater discharge permit, and orders issued hereunder, or any other pretreatment standard or requirement shall be fined in an amount not to exceed one thousand dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- (B) Assessments may be added to the user's next scheduled sewer service charge and the Director shall have such other collection remedies as may be available for other service charges and fees.
- (C) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance and interest shall accrue thereafter at a rate of one and one-half percent (1 1/2%) per month. A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.
- (D) Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within twenty (20) days of being notified of the fine. Where a request has merit, the Director shall convene a hearing on the matter within twenty (20) days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The City may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.
- (E) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.

4-6-10.7 Emergency Suspensions. The Director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- (A) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings set forth in Section 4-6-10.8 are initiated against the user.

- (B) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director, prior to the date of any show cause or termination hearing under Sections 4-6-10.3 and 4-6-10.8.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

4-6-10.8 Termination of Discharge. In addition to those provisions in Section 4-6-5.6 of this ordinance, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

- (A) Violation of wastewater discharge permit conditions.
- (B) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (C) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (D) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (E) Violation of the pretreatment standards in Section 4-6-2.0 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 4-6-10.3 of this ordinance why the proposed action should not be taken.

SECTION 4-6-11.0 JUDICIAL ENFORCEMENT REMEDIES

4-6-11.1 Injunctive Relief. Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the Director may petition the Iowa District Court for Muscatine County through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the City. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

4-6-11.2 Civil Penalties

- (A) Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the Director for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (B) The Director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (D) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

4-6-11.3 Criminal Prosecution

- (A) Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one hundred dollars (\$100.00) per violation per day or imprisonment for not more than thirty (30) days.
- (B) Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one hundred dollars (\$100.00) and/or be subject to imprisonment for thirty (30) days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (C) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than one hundred dollars (\$100.00) per violation per day or imprisonment for not more than thirty (30) days.
- (D) In the event of a second conviction, a user shall be punished by a fine of not more than one hundred dollars (\$100.00) per violation per day or imprisonment for not more than thirty (30) days.

4-6-11.4 Remedies Nonexclusive. The provisions in Sections 4-6-9.0 through 4-6-12.0 are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

SECTION 4-6-12.0 SUPPLEMENTAL ENFORCEMENT ACTION

4-6-12.1 Performance Bonds. The Director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

4-6-12.2 Liability Insurance. The Director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

4-6-12.3 Water Supply Severance. Whenever a user has violated or continues to violate the provisions of this ordinance, orders, or wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

4-6-12.4 Public Nuisance. Any violation of this ordinance, wastewater discharge permits, or orders issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code Title 9, Chapter 4 governing such nuisances, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

SECTION 4-6-13.0 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

4-6-13.1 Upset

- (A) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (B) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C) are met.
- (C) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and the industrial user can identify the cause(s) of the upset;
 2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 3. The industrial user has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - a. A description of the indirect discharge and cause of noncompliance
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (D) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- (E) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (F) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

4-6-13.2 General/Specific Prohibitions. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 4-6-2.3 of this ordinance if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) no local limit exists, but the discharge did not change substantially in nature

or constituents from the user's prior discharge when the City of Muscatine was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

4-6-13.3 Bypass

- (A) "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (B) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- (C) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass if possible.

An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received with twenty-four (24) hours.

- (D) Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless;
1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The industrial user submitted notices as required under paragraph (C) of this section.

The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (D) of this section.

SECTION 4-6-14.0 SURCHARGE COSTS

(RESERVED)

SECTION 4-6-15.0 MISCELLANEOUS PROVISIONS

4-6-15.1 Pretreatment Charges and Fees. The City shall adopt and periodically review reasonable charges and fees for the recovery of the costs of setting up and operating the City's Pretreatment Program. These fees and charges shall be adopted by resolution and published per Section 362.3 of the Iowa Code. These fees and charges may include:

- (A) Fees for wastewater discharge permit applications including the cost of processing such applications.
- (B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.
- (C) Fees for reviewing and responding to accidental discharge procedures and construction.
- (D) Fees for the filing and review of appeals.
- (E) Fees for the dumping of hauled wastewater.
- (F) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City.

4-6-15.2 Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

4-6-15.3 Conflicts. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict.

SECTION 4-6-16.0 FATS, OILS, AND GREASE CONTROL

4-6-16.1 Scope and purpose: The scope and purpose of this section shall be to establish uniform permitting, maintenance, and monitoring requirements to aid in the prevention of sanitary sewer blockages and obstructions that result from the discharge and accumulation of fats, oils, and grease into the City of Muscatine Publicly Owned Treatment Works (POTW) from industrial or commercial establishments, particularly food preparation and serving establishments.

(A) The objectives of this ordinance are to:

- (1) Prevent the introduction of excessive amounts of grease into Muscatine's POTW.
- (2) Prevent clogging or blocking of the City's sewer lines due to grease build-up causing sewer line backup and flooding of streets, residences and commercial buildings, resulting in potential liability to the City.
- (3) Implement a procedure to recover the costs incurred in cleaning and maintaining sewer lines and disposing of grease blockages,
- (4) Implement a procedure to recover costs for any liability incurred by the City for damage caused by grease blockages resulting in the flooding of streets, residences or commercial buildings.
- (5) Issue Grease Discharge Permits (GDPs) to food service establishments to require maintenance, monitoring, compliance, and enforcement activities.
- (6) Establish administrative review procedures and reporting requirements.
- (7) Establish fees for the recovery of costs resulting from the program established herein.
- (8) Establish enforcement procedures for violations of any part or requirement of this section.

(B) Applicability: The provisions of this section shall apply to all existing food service establishments that are located within the municipal boundaries of the City of Muscatine and to all food service establishments that begin operations within the municipal boundaries of the City of Muscatine on or after the effective date of this Ordinance.

4-6-16.2 Definitions: The following terms, when used in this section, shall have the meanings ascribed to them below:

- (A) Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. For purposes of this ordinance, Best Management Practices include procedures and practices that reduce the discharge of Fats, Oil and Grease (FOG) to the building drain and to the POTW.
- (B) Fats, Oils, and Grease means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".
- (C) Food Service Establishment: A commercial facility engaged in preparing and/or serving food for consumption by the public, such as a restaurant, commercial kitchen, caterer, hotel, school, hospital, prison, correctional facility, and care institution.
- (D) Grease Discharge Permit (GDP): A permit issued by the City of Muscatine authorizing the discharge of grease laden wastewater to the POTW from a food service establishment.
- (E) Grease Interceptor: A tank that serves one or more fixtures and is remotely located. Such grease interceptors include, but are not limited to tanks that capture wastewater from dishwashers, floor drains, pot and pan sinks and trenches. For purposes of this Ordinance, a grease interceptor is an outside, underground, multi-compartment tank that reduces the amount of FOG in wastewater prior to discharging into the POTW.
- (F) Grease Trap: A device designed to retain grease from one to a maximum of four fixtures. A grease trap is not appropriate for use on heated water (e.g., dishwasher) or in-line to a waste disposal unit (e.g., garbage disposal and grinders). For purposes of this Ordinance, a grease trap is a small, indoor device.
- (G) Minimum design capability means the design features of a grease interceptor or grease trap and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the POTW.

4-6-16.2

4-6-16.3

(H) Non-cooking establishments means those food service establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.

(I) POTW means the Publicly Owned Treatment Works in Muscatine, Iowa and includes the collection and drainage system, the pumping stations, and the wastewater treatment plant.

Restaurant fixture means sinks, dishwashers, garbage grinders, floor drains, trenches, or other equipment discharging wastewater to a grease interceptor or grease trap.

(K) User means any person, including those located outside the jurisdictional limits of the city, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute wastewater from mobile sources, such as those who discharge hauled wastewater.

4-6-16.3 Grease Traps and Interceptors:

(A) Requirements: All food service establishments are required to have a grease interceptor or grease trap. The requirements in this section are in addition to any applicable requirements of the City of Muscatine Plumbing Code and the International Plumbing Code.

(1) New Establishments: On or after the effective date of this section, food service establishments which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service establishment, where such establishment did not previously exist, shall be required to install, operate and maintain a grease interceptor or grease trap according to the requirements contained in this section. Grease interceptors or grease traps shall be installed and permitted prior to the issuance of a certificate of occupancy.

(2) Existing Establishments: All food service establishments existing within the City prior to the effective date of this section shall be permitted to operate and maintain existing grease interceptors or grease traps provided their grease interceptors or grease traps are in efficient operating condition.

On or after the effective date of this section, the City may require an existing food service establishment to install, operate, and maintain a new grease interceptor or grease trap that complies with the requirements of this section or to modify or repair any noncompliant plumbing or existing interceptor or trap within ninety (90) days of written notification by the City when any one or more of the following conditions exist:

(a) The establishment is found to be contributing oils and grease in quantities greater than one hundred milligrams per liter (100mg/L).

(b) The establishment does not have a grease interceptor or grease trap.

(c) The establishment has an undersized, irreparable, or defective grease interceptor or grease trap.

(d) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the City of Muscatine.

(e) The existing establishment does not have plumbing connections to a grease interceptor or grease trap in compliance with the requirements of this section

(f) The establishment fails to submit a completed GDP Application within sixty (60) days after the date of the receipt of an application form from the City of Muscatine.

(g) The establishment has not operated as a food service facility for twelve (12) consecutive months prior to receiving the GDP application form.

(B) Grease interceptors and grease traps shall be installed by users as follows:

(1) Grease interceptors or grease traps shall be installed at the user's expense, when such user operates a food service establishment. Grease interceptors or grease traps may also be required in non-cooking or cold dairy and frozen foodstuffs establishments and other industrial or commercial establishments when it is deemed necessary by the Director or his/her designee for the proper handling of liquid wastes containing grease.

(2) Grease interceptors shall conform to the standards outlined in the International Plumbing Code adopted by reference in the Plumbing Code of the City of Muscatine, Iowa.

- (3) Grease interceptors shall provide access manholes with a minimum diameter of twenty-four (24) inches over each chamber and sanitary tee. The access manholes shall extend at least to the finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection and grease removal.
 - (4) No non-grease-laden sources shall be allowed to connect to sewer lines intended for grease interceptor service.
 - (5) Grease interceptors and grease traps shall be equipped with an accessible sampling port on the effluent side of the interceptor or trap.
- (C) Users who are required to pass wastewater through a grease interceptor or grease trap shall:
- (1) Operate the grease interceptor or grease trap in a manner so as to maintain such device such that attainment of the grease limit is consistently achieved. "Consistent" shall mean any wastewater sample taken from such grease interceptor or trap shall meet the numerical limit of one hundred milligrams per liter (100mg/L).
 - (2) Remove any accumulated grease cap and sludge pocket as required when FOG and solids reach twenty-five percent (25%) of the unit's capacity, at the user's expense. Grease interceptors and grease traps shall be kept free of inorganic solid materials, such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the grease interceptor or grease trap.
 - (3) Not reintroduce skimmed or pumped wastes or other materials removed from the grease interceptor or grease trap that are treated in any fashion on-site back into the grease interceptor or grease trap as an activity of or after such on-site treatment.
 - (4) Understand and agree that use of hot water as a grease abatement method is prohibited and the use of biological additives as a grease degradation agent is conditionally permissible, upon prior written approval by the Director or his/her designee. Any establishment using this method of grease abatement shall maintain the interceptor or trap in such a manner that attainment of the grease wastewater discharge limit, as measured from the outlet, is consistently achieved.

4-6-16.3

4-6-16.4

(5) Understand and agree that the use of an automatic grease removal system is conditionally permissible, upon prior written approval by the Director or his/her designee. Any establishment using this equipment shall operate the system in such a manner that attainment of the grease wastewater discharge limit, as measured from the unit's outlet, is consistently achieved.

(6) Maintain a written record of grease interceptor or grease trap maintenance, including dates and means of disposal, for three (3) years. All such records will be available for inspection by the City at all times.

4-6-16.4 Food Service Establishment Permitting Program

(A) Permitting requirements for food service establishments: Each food service establishment shall be evaluated to determine whether it falls within the definition of a Significant Industrial User (SIU). Establishments classified, as SIUs shall be subject to permitting as provided in Section 4-6-4.0 et. seq. All other food service establishments shall be required to apply for and obtain a Grease Discharge Permit from the City. The City shall approve, deny, or approve with special conditions all applications for GDPs in accordance with the policies and regulations established in this section. The GDP shall be in addition to any other permits, registrations, or occupational licenses that may be required by Federal, State or local law. It shall be unlawful for any food service establishment identified by the City to discharge wastewater containing fats, oils and grease to the City's POTW without a current GDP.

(B) Application form: The City shall provide an application form for a GDP. The appropriate form shall be provided to all food service establishments identified by the City. All food service establishments required under the terms of this program to obtain a GDP shall submit a completed application form for a GDP to the City at the address shown on the form within thirty (30) calendar days of receipt of the form. Each application form shall include the following information:

(1) Name, address, telephone number and location, (if different from the address) of applicant, owner of the premises (if different from the tenant when property is leased) from which fats, oils, and grease are discharged, and the name of a representative duly authorized to act on behalf of the food service establishment.

- (2) A description of the activities, facilities, and processes on the premises, including a list of all equipment, raw materials and chemicals used or stored at the facility. Material Safety Data Sheets (MSDSs) of all such chemicals shall be included.
 - (3) A drawing in sufficient detail to show the location of all kitchen equipment that produces wastewater, and all sewers, floor drains, sewer connections, grease interceptors, and appurtenances in the user's premises, if known.
 - (4) The number of employees, the number and times of shifts, and the hours and days of facility operation.
 - (5) Copies of recent water bills.
 - (6) Details of all grease interceptor maintenance conducted within the past year.
 - (7) A signed statement certifying that the information provided is accurate, and that the applicant agrees to abide by the regulations contained in this section, as well as any other applicable Federal, State or local regulations governing the food service establishment.
 - (8) Any other information determined by the Director to be necessary in order to evaluate the GDP application.
- (C) Application procedure: Once a completed application form has been returned to the City, the food service establishment will be inspected prior to the issuance of the GDP. During the pre-permit inspection, the information contained in the application form will be verified and the grease interceptor or grease trap will be inspected. If all information is verified and the grease interceptor or trap is in proper working condition, a GDP will be issued together with a copy of the City's information document entitled "*Fats, Oil and Grease Best Management Practices Manual*".

If the grease interceptor or grease trap requires any maintenance or repairs, or incorrect information has been given, the inspector shall provide a *Notice to Correct* any deficiencies. The Notice shall include a required time schedule for repairs to be effected prior to a second pre-permit inspection. Second pre-permit inspections shall be performed after a minimum of thirty (30) calendar days have elapsed to allow for corrective action by the food service establishment. If the facility is not in compliance at the second pre-permit inspection, charges and fees will be levied.

An application for a permit shall be granted with conditions or denied within sixty (60) days after the date of the last pre-permit inspection in which the applicant's facility is in compliance.

- (D) Grease Discharge Permit: The following criteria apply to all GDPs:
- (1) Each GDP shall be effective for a one-year period and shall have an effective and an expiration date.
 - (2) The GDP must be posted for public view and a copy of the GDP must be kept in the establishment's records file.
 - (3) The GDP shall be issued to a specific user for a specific operation. A GDP shall not be transferred or sold to a new owner under any circumstances. A new owner is required to apply for a new GDP.
 - (4) An application for renewal of the GDP shall be submitted at least sixty (60) days prior to the expiration date of the existing GDP by each applicant wishing to continue to discharge wastewater to the POTW. Failure to submit applications in a timely manner shall be a violation of this section.
 - (5) The terms and conditions of the GDP are subject to modification by the City during the term of the permit, if limitations or requirements in this program are modified. The permit holder shall be informed of any proposed changes in the issued permit at least sixty (60) days prior to the effective date of the change(s). Any changes or new conditions in the GDP shall include a reasonable schedule for achieving compliance.
- (E) Entry: Each food service establishment shall allow the Director or his/her designee or other duly authorized employees or agents of the City bearing proper credentials and identifications access at all reasonable times to all parts of the premises for the purpose of inspection, observation, records examination, measurement, sampling and testing in accordance with the provisions of this section. The refusal of any food service establishment to allow entry to or upon the establishment's premises for purposes of inspection, sampling effluents or inspecting and copying records or performing such other duties as shall be required by this section shall constitute a violation of this section. The Director may seek a warrant or use such other legal procedures as may be advisable and reasonably necessary to discharge his duties pursuant to this section.

(F) Inspection: All food service facilities shall be inspected as follows:

(1) Pre permit inspections: Pre-permit inspections shall be conducted by City officials as outlined in Section 4-6-16.4(C).

(2) Inspections: The inspector shall inspect food service establishments on both an unscheduled and unannounced basis or on a scheduled basis after a GDP has been issued to verify compliance with the requirements of this section. The inspector shall also determine if the practices contained in the "*Fats, Oil and Grease Best Management Practices Manual*" issued to the establishment have been implemented. All food service establishments with a current GDP shall be inspected. Inspections shall include all equipment, food processing and storage areas and shall include a review of the processes that produce wastewater discharged from the facility through the grease interceptor or grease trap. The inspector shall also inspect the interceptor or trap maintenance logbook and file, other pertinent data, the grease interceptor or grease trap, and may check the level of the interceptor or trap contents and/or take samples as necessary. The inspector shall record all observations on a *Compliance Inspection Checklist*. Any deficiencies shall be noted, including but not limited to:

(a) Failure to properly maintain the grease interceptor or grease trap in accordance with the provisions of the GDP and this section.

(b) Failure to report changes in operations or wastewater constituents and characteristics.

(c) Failure to report pumping activities or keep copies of manifest forms or receipts.

(d) Failure to maintain logs, files, records, or access for inspection or monitoring activities.

(e) Failure to obtain or renew the GDP in a timely manner.

(f) Any other inconsistency with the program that requires correction by the food service facility concerned.

If any deficiencies are recorded by the inspector during an inspection, the inspector shall provide the food service establishment a written *Notice to Correct* within twenty-one (21) calendar days and a tentative date for a re-inspection.

4-6-16.4

4-6-16.5

(3) Re-inspections: The inspector shall re-inspect food service establishments that receive a *Notice to Correct*. The inspector shall inspect any repairs or other deficiencies and shall note compliance on the *Compliance Inspection Checklist*. In the event that the food service establishment has returned to compliance with all of the deficiencies, there shall be no charge for the re-inspection. In the event of continuing non-compliance, successive re-inspections will be scheduled and appropriate fees shall be charged to the food service establishment. A first re-inspection shall be performed after a minimum of twenty-one (21) calendar days have elapsed to allow for corrective action by the food service establishment to be completed.

- (G) Monitoring: The City shall have the right to sample and analyze the wastewater from any food service establishment at any time to determine compliance with the requirements of the Sewer Use Regulations. If violations of the oil and grease limit are detected, enforcement action may be initiated and monitoring costs may be billed to the food service establishment.

4-6-16.5 Grace Period

- (A) Except as provided herein, for a period of ninety (90) days after the effective date of this section, although installation of grease interceptors or grease traps will be required, no enforcement actions will be taken under this section for failure to achieve limits on grease discharges from grease interceptors or grease traps.
- (B) If, during this grace period, an obstruction of a City sewer main(s) occurs that causes a sewer overflow to the extent that a hazard to human health or the environment is realized and that such overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the City's sewer main(s), the City will take appropriate enforcement actions, as stipulated in the City's Industrial Pretreatment Program Enforcement Response Plan and Sewer Use Regulations, against the generator or contributor of such grease.

4-6-16.6

4-6-16.7

4-6-16.6 Fees

(A) The charges and fees provided for in this section are separate and distinct from all other fees chargeable by the City. The City shall adopt and periodically review reasonable charges and fees for the recovery of the costs of operating the City's Fats, Oils, and Grease Control Program. These fees and charges shall be adopted by resolution and published per Section 362.3 of the Iowa Administrative Code. These charges and fees may include:

- (1) Fees for a Grease Discharge Permit application including the cost of processing such applications.
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a food service establishment's wastewater discharge and reviewing monitoring reports.
- (3) Fees and charges for reviewing construction and responding to accidental discharge.
- (4) Fees for filing and review of appeals.
- (5) Other charges and fees as the City may deem necessary to carry out the requirements contained herein.

4-6-16.7 Schedule of Fees

(A) Grease Discharge Permit fees: Grease Discharge Permit (GDP) fees shall be determined according to a schedule as follows:

Table 1
Consumption On The Premises

Annual Gross Sales	GDP Fee
Less than \$50,000.00	\$50.00
\$50,000.00 to less than \$100,000.00	\$85.00
\$100,000.00 to less than \$250,000.00	\$175.00
\$125,000.00 to less than \$500,000.00	\$200.00
\$500,000.00 or more	\$225.00

T a b l e 2
Consumption Off The Premises

Annual Gross Sales	GDP Fee
Less than \$10,000.00	\$30.00
\$10,000.00 to less than \$250,000.00	\$75.00
\$250,000.00 to less than \$500,000.00	\$115.00

(1) Food service establishments covered by both fee schedules shall be assessed permit fees not to exceed seventy-five (75) percent of the total applicable fees.

- (B) Pre-permit inspection fees: The charge for the initial pre-permit inspection shall be included as part of the permit application fee. A fee of \$150 may be charged for the second inspection if a third inspection is required to resolve pre-permitting noncompliance. A fee of \$250 shall be charged to a food service establishment for a third pre-permit inspection fee. If a fourth or more inspections are required, a fee of \$500 shall be charged to the food service establishment to recover the cost for each inspection. Such fees shall be in addition to any enforcement actions.
- (C) Inspection and re-inspection fees: There shall be no charge for random inspections conducted by inspectors of a food service establishment with a current GDP. If a grease interceptor or trap has to be re-inspected because of deficiencies found during the previous inspection by the inspector and all of the deficiencies are found to be corrected, there shall be no charge for the re-inspection. If all of the deficiencies have not been corrected, a second inspection fee of \$150 may be charged to the food service establishment. If a third inspection is required, an inspection fee of \$250 shall be charged to the food service establishment if all of the deficiencies have still not been corrected. If a fourth or more inspections are required an inspection fee of \$500 for each successive re-inspection shall be charged to the food service establishment in addition to other enforcement actions if all of the deficiencies have still not been corrected.
- (D) Monitoring fees: Fees for any monitoring, sampling, and analysis of wastewater discharges deemed necessary for the protection of the POTW shall be charged to the food service establishment in the amount established in Section 4-5-3(B).
- (E) Administrative Order fee: A fee of \$500 shall be charged to any food service facility or grease hauler that is issued with an administrative order as required by Section 4-6-10.0.

4-6-16.7

4-6-16.7

- (F) All fees shall become immediately due and owing to the City upon receipt of invoice(s) for rendition of services or expenditure by the City and shall become delinquent if not fully paid within thirty (30) days after receipt. Any delinquent amount shall be subject to a late charge of fifteen (15) percent.

TITLE 4 GENERAL PROVISIONS

CHAPTER 7

URBAN RENEWAL

SECTIONS:

- 4-7-1 Purpose
- 4-7-2 Definitions
- 4-7-3 Provisions for Divisions of Taxes Levied on Taxable Property in the Urban Renewal Project
- 4-7-4 Saving Clause

4-7-1 Purpose. The purpose of this Ordinance is to provide for the division of taxes levied on a taxable property in the Urban Renewal Project of the City of Muscatine, Iowa, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this Ordinance in order to create a special fund to pay the principal of and interest of loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by the City of Muscatine in connection with its urban renewal activities.

4-7-2 Definitions. For use within this Ordinance, the following terms shall have the following meanings:

- (A) "City" shall mean the City of Muscatine, Iowa.
- (B) "County" shall mean the County of Muscatine, Iowa.
- (C) "Urban Renewal Project" shall mean the Muscatine, Iowa, Urban Renewal Project No. 1, as embodied in the Urban Renewal Plan approved by the Council of the City and recorded in Book 261 of Lots, page 555, in the Muscatine County Recorder's Office, which provides for the acquisition, clearance, and redevelopment of certain properties in the City of Muscatine, Iowa, and Urban Renewal Project No. 2 as adopted July 18, 1974, and as amended August 19, 1976.
- (D) "Taxable Property in the Urban Renewal Project" shall mean the following described property:
 1. A part of Lots One (1) and Two (2), in Block Thirty-

three (33), in the City of Muscatine, Iowa, described as follows, to-wit:

Commencing at the northwesterly corner of said Lot One (1), thence southerly along the Westerly line thereof thirty-five and twenty-two hundredths (35.22) feet; then Easterly and parallel to the Northerly line of Second Street in said City, sixty-eight (68,) feet; then Northerly and at right angles to said last described line thirty-six (36) feet to the Southerly line of the twenty (20) foot public alley in said Block Thirty-three (33); thence Westerly along said last described line sixty-eight (68) feet to the place of beginning.

2. Beginning at the intersection of the Southerly right-of-way line of Third Street and the Easterly right-of-way line of Iowa Avenue; thence Northeasterly approximately 300' along the Southerly right-of-way line of Third Street to the intersection of the Westerly right-of-way line of Sycamore Street; thence Southeasterly approximately 140' along the Westerly right-of-way line of Sycamore Street to the intersection with the Northerly right-of-way line of Alley 2; thence Southwesterly approximately 300' along the Northerly right-of-way line of Alley 2 to the intersection with the Easterly right-of-way line of Iowa Avenue; thence Northwesterly approximately 140' along the Easterly right-of-way line of Iowa Avenue to the point of beginning.

4-7-3 Provisions for Divisions of Taxes Levied on Taxable Property in the Urban Renewal Project. After the effective date of this Ordinance, the taxes levied on the Taxable Property in the Urban Renewal Project each year by and for the benefit of the State of Iowa, the City, the County, and any school district, or districts in which the Urban Renewal Project is located, or other taxing districts shall be divided as follows:

- (A) That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the Taxable Property in the Urban Renewal Project, as shown on the assessment roll used in connection with the taxation of the property by the taxing district, last equalized prior to the effective date of this Ordinance, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of

allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Project on the effective date of this Ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the County last equalized on the effective date of this Ordinance shall be used in determining the assessed valuation of the Taxable Property in the Urban Renewal Project on the effective date.

- (B) That portion of the taxes each year in excess of such amounts Shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to, or indebtedness whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9 (1) of the Code of Iowa, incurred by the City to finance or refinance in whole or in part its urban renewal activities, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the, provisions of this Ordinance. Unless and until the total assessed valuation of the Taxable Property in the Urban Renewal Project exceeds the total assessed value of the Taxable Property in the Urban Renewal Project as shown by the last equalized assessment roil referred to in subsection (A) of this Section, ail the taxes levied and collected upon the Taxable Property in the Urban Renewal Project shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the Taxable Property in the Urban Renewal Project shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
- (C) The portion of taxes mentioned in subsection (B) of this Section and the special fund into which they shall be paid may be irrevocably pledged by this City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9 (1) of the Code of Iowa, or indebtedness incurred by the City in connection with its urban renewal activities.
- (D) As used in this Section the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

4-7-4 Saving Clause. If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such

adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

TITLE 4 GENERAL PROVISIONS

CHAPTER 8

INDUSTRIAL TAX EXEMPTION

SECTIONS:

- 4-8-1 Partial Exemption
- 4-8-2 New Construction
- 4-8-3 Reconstruction
- 4-8-4 Duration
- 4-8-5 Amount of Exemption
- 4-8-6 Application
- 4-8-7 Repeal
- 4-8-8 Limitation of Tax Exemptions
- 4-8-9 Effective Dates

4-8-1 Partial Exemption. This article does hereby provide for a partial exemption pursuant to Chapter 427B of the Code of Iowa from property taxation of the actual value added to the industrial real estate.

4-8-2 New Construction. New construction as referred to herein means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures.

4-8-3 Reconstruction. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Development Commission.

4-8-4 Duration. The partial exemption shall be available until such time as this Ordinance is repealed by the City Council of the City of Muscatine, Iowa.

4-8-5 Amount of Exemption. The actual value added to industrial real estate for the reasons specified in this Article is eligible to receive a partial exemption from taxation for a period of five (5) years. "Actual value added" as used in this Article means the actual value added as of the first of the year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

- (a) for the first year, seventy-five percent (75%)
- (b) for the second year, sixty percent (60%)
- (c) for the third year, forty-five percent (45%)
- (d) for the fourth year, thirty percent (30%)
- (e) for the fifth year, fifteen percent (15%)

However, the granting of the exemption under this section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

4-8-6 Application. An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February first of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the director of revenue and shall contain information pertaining to the nature of the improvement, its cost and other information deemed necessary by the director of revenue.

A person may submit a proposal to the City Council of the City to receive prior approval for eligibility for a tax exemption on new construction. The City Council, by Ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the City. The prior approval shall also be subject to the hearing requirements of Section 427B.1 of the Code of Iowa.

Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the City Council to approve or reject.

4-8-7

4-8-9

4-8-7 Repeal. When in the opinion of the City Council continuation of the exemption granted in this Article ceases to be of benefit to the City, the City Council may repeal this Ordinance, but all existing exemptions shall continue until their expiration.

4-8-8 Limitation on Tax Exemptions. A property tax exemption under this Article shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

4-8-9 Effective Dates. This chapter shall be effective on passage and shall continue in effect until repealed by City Council.

TITLE 4 GENERAL PROVISIONS

CHAPTER 9

DIVISION OF TAXES LEVIED ON TAXABLE
PROPERTY IN THE DOWNTOWN AND INDUSTRIAL
CONNECTOR URBAN RENEWAL

SECTIONS:

- 4-9-1 Purposes
- 4-9-2 Definitions
- 4-9-3 Provision for Division of Taxes Levied on Taxable
Property in the Urban Renewal Areas.

4-9-1 Purposes. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Downtown and Industrial Connector Urban Renewal Areas, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Muscatine to finance projects in such areas.

4-9-2 Definitions. For use within this ordinance the following terms shall have the following meanings:

"City" shall mean the City of Muscatine, Iowa. "County" shall mean the County of Muscatine, Iowa.

"Urban Renewal Areas" shall mean the Downtown and Industrial Connector Renewal Areas, the boundaries of which are set out below, such areas having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on July 21, 1994:

"Downtown Urban Renewal Area"

a) All public property, including but not limited to roadways and public rights-of-way; parks; recreational areas; and publicly-owned land, structures and improvements; and

4-9-2

4-9-3

b) The following parcels, as shown by Muscatine County Tax Assessor's Parcel Number:

- 08-35-485-003
- 08-35-485-011
- 08-35-485-021
- 08-35-485-022

- 08-35-458-017

- 08-35-477-021

- 08-35-480-023
- 08-35-480-003
- 08-35-480-007
- 08-35-480-009
- 08-35-480-011
- 08-35-480-015
- 08-35-480-016
- 08-35-480-017
- 08-35-480-018

- 08-36-313-019

All of which properties are located within an area whose boundaries are described as follows:

Real estate generally bounded on the south by the Mississippi river; on the east by the Nobert Beckey Bridge and U.S. Highway 92, East Second Street and Oak Street to Sixth Street; on the north by Sixth Street between Oak and Iowa Avenue; and on the west by Iowa Avenue from Sixth Street to Fourth Street, Fourth Street from Iowa Avenue to Chestnut Street, Chestnut Street from Fourth Street to Third Street, Third Street from Chestnut Street to Linn Street, Linn Street from Third Street to Alley No. 1, Alley No. 1 extended to Elm Street and Elm Street extended to the Mississippi River, the point of beginning."

4-9-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Areas. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Areas each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Areas are located, shall be divided as follows:

- (A) That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Areas, as shown on the assessment roll as of January 1, 1993, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Areas on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1, 1993, shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Areas on the effective date.
- (B) That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Areas, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Areas exceeds the total assessed value of the taxable property in such areas as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Areas shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Areas shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
- (C) The portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Areas.

- (D) As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

4-10-1

4-10-2 TITLE 4 GENERAL PROVISIONS

CHAPTER 10

DIVISION OF TAXES LEVIED ON
TAXABLE PROPERTY IN THE HIGHWAY 38
NORTHEAST URBAN RENEWAL AREA

SECTIONS:

- 4-10-1 Purpose
- 4-10-2 Definitions
- 4-10-3 Provisions for Division of Taxes Levied on
Taxable Property in the Urban Renewal Area

4-10-1 Purpose. The purpose of this ordinance is to provide the division of taxes levied on the taxable property in the Highway 38 Northeast Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Muscatine to finance projects in such area.

4-10-2 Definitions. For use within this ordinance the following terms shall have the following meanings:

- (A) "City" shall mean the City of Muscatine, Iowa.
- (B) "County" shall mean the County of Muscatine, Iowa.
- (C) "Urban Renewal Area" shall mean the Highway 38 Northeast Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on October 3, 1996:

LEGAL DESCRIPTION

A tract of land located in the Northeast Quarter and the Northwest Quarter of Section 24, Township 77 North, Range 2 West of the 5th P.M., Muscatine County, Iowa. Said tract more particularly described as follows:

Beginning at the Northwest Corner of the Northeast Quarter of said Section 24; thence North 89°28'58" East (assumed bearing) 904.20 feet on the North line of the Northeast Quarter of said Section 24; thence South 00°30'17" East 2642.65 feet to the South line of the Northeast Quarter of said Section 24; thence South 89°30'02" West 741.74 feet on said South line to the Easterly right-of-way of State Highway No. 38; thence North 16°25'35" West 763.21 feet on said Easterly right-of-way; thence North 30°29'55" West 154.85 feet on said easterly right-of-way; thence North 21°40'59" West 534.60 feet on said Easterly right-of-way; thence North 24°49'01" West 308.06 feet on said Easterly right-of-way; thence North 21°40'59" West 1095.53 feet on said Easterly right-of-way to the North line of the Northwest Quarter of said Section 24; thence North 89°30'12" East 886.89 feet on said North line to the point of beginning. Said tract contains 75.30 acres.

LEGAL DESCRIPTION

A tract of land located in the Southwest Quarter of Section 13, Township 77 North, Range 2 West of the 5th P.M., Muscatine County, Iowa. Said tract more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of said Section 13; thence South 89°30'12" West 99.46 feet on the South line of the Southwest Quarter of said Section 13 to the Point of Beginning of the tract herein described; thence continuing South 89°30'12" West on said Southerly line 787.43 feet; thence North 21°40'59" West on the Easterly right-of-way of State Highway No. 38 a distance of 8.58 feet; thence North 89°30'12" East 790.53 feet; thence South 00°00'00" East 8.00 feet to the Point of Beginning. Said tract contains 0.11 acres.

4-10-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds

payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.91(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

(d) as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

4-11-1

4-11-1

TITLE 4 GENERAL PROVISIONS
CHAPTER 11
PROPERTY EXEMPT FROM TAXATION

SECTION:

4-11-1 PROPERTY EXEMPT FROM TAXATION

4-11-1 Property Exempt from Taxation. Pursuant to Iowa Code Section 427.1(27) the property known and identified as 1425 Houser Street South is exempt from taxation until such time as the property is leased or sold.

4-12-1

4-12-1

TITLE 4 GENERAL PROVISIONS

CHAPTER 12

URBAN REVITALIZATION AREA – PROGRESS PARK

SECTION:

4-12-1 Urban Revitalization Area. Pursuant to Chapter 404 of the Code of Iowa, the Progress Park industrial area, which is appropriated as an economic development area, is hereby declared an Urban Revitalization Area under the City of Muscatine's Urban Revitalization Plan.

TITLE 4 GENERAL PROVISIONS

CHAPTER 13

URBAN REVITALIZATION AREA – DOWNTOWN AREA

SECTION:

4-13-1 Urban Revitalization Area. Pursuant to Chapter 404 of the Code of Iowa, the Downtown Area, which is appropriated as an economic development area, is hereby declared an Urban Revitalization Area under the City of Muscatine's Urban Revitalization Plan.

TITLE 4 GENERAL PROVISIONS

CHAPTER 14

MUSCATINE MALL URBAN RENEWAL AREA

SECTIONS:

- 4-14-1 Purpose
- 4-14-2 Definitions
- 4-14-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area
- 4-14-4 Repealer
- 4-14-5 Saving Clause
- 4-14-6 Effective Date

4-14-1 Purpose. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Muscatine Mall Urban Renewal Area of the City of Muscatine, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Muscatine to finance projects in such area.

4-14-2 Definitions. For use within this ordinance the following terms shall have the following meanings:

- (A) "City" shall mean the City of Muscatine, Iowa.
- (B) "County" shall mean Muscatine County, Iowa.
- (C) "Urban Renewal Area" shall mean the Muscatine Mall Urban Renewal Area of the City of Muscatine, Iowa, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on December 7, 2006.

Certain real property in the City of Muscatine, County of Muscatine, State of Iowa, more particularly described as follows:

IT IS GENERALLY DESCRIBED AS A POINT BEGINNING AT THE EASTERLY RIGHT-OF-WAY LINE OF PARK AVENUE AND THE NORTHERLY RIGHT-OF-WAY LINE OF HARRISON STREET; THENCE NORTHEASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF HARRISON STREET EXTENDED TO A POINT ON THE EASTERLY PROPERTY LINE OF THE MUSCATINE MALL; THENCE NORTHERLY ALONG THE EAST LINE OF MUSCATINE MALL; THENCE WESTERLY TO A POINT AT THE INTERSECTION OF THE EASTERLY PROPERTY LINE OF THE BEMIS PARCEL; THENCE NORTHERLY TO THE NORTH RIGHT-OF-WAY LINE OF FORD AVENUE; THENCE WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF FORD AVENUE AS EXTENDED TO PARK AVENUE; THENCE SOUTHERLY ALONG THE EAST PROPERTY LINE OF PARK AVENUE TO THE POINT OF BEGINNING.

4-14-3. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

- (A) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.
- (B) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

- (C) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.
- (D) as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

4-14-4 Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

4-14-5 Saving Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

4-14-6 Effective Date. This ordinance shall be effective after its final passage, approval and published as provided by law.

TITLE 4 GENERAL PROVISIONS

CHAPTER 15

URBAN REVITALIZATION AREA — SOUTH END URBAN RENEWAL AREA

SECTION:

4-15-1 Purpose

4-15-2 Definitions

4-15-3 Division of Taxes

4-15-1 Purpose. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the 2003 Addition to the South End Urban Renewal Area of the City of Muscatine, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Muscatine to finance projects in the such area.

4-15-2 Definitions. For use within this ordinance, the following terms shall have the following meanings:

- (A) "City" shall mean the City of Muscatine, Iowa.
- (B) "County" shall mean the County of Muscatine, Iowa.
- (C) "Urban Renewal Area Amendment" shall mean the 2003 Addition to the South End Urban Renewal Area of the City of Muscatine, Iowa, the boundaries of which are set out below, approved by the City Council by resolution adopted on the 21st day of August 2003.

Certain real property situated in the City of Muscatine, County of Muscatine, State of Iowa more particularly described as follows:

Township 76 North, Range 2 West to the south 1/4 corner of Section 9; thence west along the north line of Sections 16 and 17, Township 76 North, Range 2 West to the north 1/4 corner of Section 17; thence south to the center of Section 17; thence west to the west 1/4 corner of Section 17; thence south to the southwest corner of Section 17; thence west along the north line of Section 19 to the northwest corner of said Section 19; thence south to the southwest corner of the northwest 1/4 of the northwest 1/4 of Section 19; thence west along the centerline of the north 'A' of Section 24 to the northwest corner of southwest 1/4 of the northwest 1/4 of Section 24; thence south along the west line of Sections 24 and 25 to the southwest corner of northwest 1/4 of the northwest 1/4 of Section 25; thence east along the centerline of the north 1/2 of Sections 25 and 30 the centerline of the main track of the former Chicago, Rock Island, and Pacific Railroad; thence northeasterly along the centerline of said railroad to the south line of Section 9, Township 76 North, Range 2 West where it intersects with the existing Urban Renewal Area.

4-15-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area Amendment. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area Amendment each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area Amendment is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area Amendment, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area Amendment.

(d) as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

TITLE 4 GENERAL PROVISIONS

CHAPTER 16

URBAN REVITALIZATION AREA – NORTHEAST URBAN RENEWAL AREA

SECTION:

- 4-16-1 Purpose
- 4-16-2 Definitions
- 4-16-3 Division of Taxes

4-16-1 Purpose. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Northeast Urban Renewal Area of the City of Muscatine, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Muscatine to finance projects in such area.

4-16-2 Definitions. For use within this ordinance, the following terms shall have the following meanings:

- (A) "City" shall mean the City of Muscatine, Iowa.
- (B) "County" shall mean the County of Muscatine, Iowa.
- (C) "Urban Renewal Area Amendment" shall mean the Northeast Urban Renewal Area of the City of Muscatine, Iowa, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution on November 6, 2003:

Part of the Northwest Fractional Quarter of Section 19, Township 77 North, Range 1 West of the 5th Principal Meridian, City of Muscatine, Muscatine County, Iowa, described as follows:

Beginning at the northwest corner of said Fractional Quarter of Section 19; thence North 88°54'26" East, 1955.05 feet on the north line of said Fractional Quarter Section to the east line of the West Half of said Fractional Quarter Section, thence South 01°02'49" East, 2662.54 feet to the south line of the West Half of said Fractional Quarter Section; thence South 89°28'33" West, 1030.12 feet on said line to the east right of way of University Drive; thence North 01°12'10" West, 998.47 feet on said east right of way line to the centerline of Primary Road No. U.S. 61; thence South 53°31'28" West, 1145.65 feet on said centerline to the west line of the West Half of Fractional Quarter Section 19; thence North 00°46'06" West, 2317.26 feet on said line to the point of beginning, containing 105.227 acres, more or less.

4-16-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area.

After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area Amendment.

(d) as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.