

CHAPTER 1

CODE OF ORDINANCES

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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Hawarden, Iowa, 2011.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined in the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision. Other words and phrases used herein have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances or unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision:

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Hawarden, Iowa.
3. “Clerk” means the city clerk of Hawarden, Iowa.
4. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of Hawarden, Iowa, 2011.
6. “Council” means the city council of Hawarden, Iowa.
7. “County” means Sioux County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Hawarden, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. “Shall” imposes a duty.

16. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17. “State” means the State of Iowa.

18. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.

19. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Words that are not defined in this Code of Ordinances or by the *Code of Iowa* have their ordinary meaning unless such construction would be inconsistent with the manifest intent of the Council, or repugnant to the context of the provision.

1.03 CITY POWERS. The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City and of its residents, and preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the

City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

1.06 RULES OF CONSTRUCTION. In the construction of this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the *Code of Iowa* shall be utilized to ascertain the intent of the Council with the understanding that the term “statute” as used therein will be deemed to be synonymous with the term “ordinance” when applied to this Code of Ordinances.

1.07 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

1.08 AMENDMENTS. All ordinances which amend, repeal or in any manner affect this Code of Ordinances shall include proper reference to chapter, section, subsection or paragraph to maintain an orderly codification of ordinances of the City.

(Code of Iowa, Sec. 380.2)

1.09 CATCHLINES AND NOTES. The catchlines of the several sections of the Code of Ordinances, titles, headings (chapter, section and subsection), editor’s notes, cross references and State law references, unless set out in the body of the section itself, contained in the Code of Ordinances, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

1.10 ALTERING CODE. It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

1.11 SEVERABILITY. If any section, provision or part of the Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code of Ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

1.12 WARRANTS. If consent to enter upon or inspect any building, structure or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the *Code of Iowa*, for an administrative search warrant. No owner, operator or occupant or any other person having charge, care or control of any dwelling unit, rooming unit, structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

(Code of Iowa, Sec. 364.3[2] and 903.1[1a])

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers

2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Hawarden, Iowa.[†]

2.02 FORM OF GOVERNMENT. The form of government of the City is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2.03 POWERS AND DUTIES OF CITY OFFICERS. The Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by State law and by the ordinances, resolutions, rules and regulations of the City.

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five Council Members elected at large for overlapping terms of four years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four years.

(Code of Iowa, Sec. 376.2)

2.06 COPIES ON FILE. The Clerk shall keep an official copy of the charter on file with the official records of the Clerk and the Secretary of State, and shall keep copies of the charter available at the Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 414 adopting a charter for the City was passed and approved by the Council on July 21, 1975. The terms of Mayor and Council were changed from two to four years by special election held July 17, 1984.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

3.01 MUNICIPAL INFRACTION. A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a municipal infraction punishable by civil penalty as provided herein.

(Code of Iowa, Sec. 364.22[3])

3.02 ENVIRONMENTAL VIOLATION. A municipal infraction which is a violation of Chapter 455B of the *Code of Iowa* or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

(Code of Iowa, Sec. 364.22 [1])

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.
2. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.
3. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

3.03 PENALTIES. A municipal infraction is punishable by the following civil penalties:

(Code of Iowa, Sec. 364.22 [1])

1. Standard Civil Penalties.
 - A. First offense – \$250.00
 - B. Second offense - \$500.00
 - C. Third offense – \$750.00

Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than \$1,000.00 for each day a violation exists or continues.

B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than \$1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

3.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. A copy of the citation may be served by personal service as provided in Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 1.310 and subject to the conditions of Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and the original citation shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(Code of Iowa, Sec. 364.22[4])

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

If the citation affects real property and charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing code violation, or a public health or safety violation, after filing the citation with the Clerk of the District Court, the City shall also file the citation in the office of the County Treasurer.

3.05 ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

(Code of Iowa, Sec. 364.22 [8])

3.06 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec. 364.22[11])

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths	5.07 Conflict of Interest
5.02 Bonds	5.08 Resignations
5.03 Duties: General	5.09 Removal of Appointed Officers and Employees
5.04 Books and Records	5.10 Vacancies
5.05 Transfer to Successor	5.11 Gifts
5.06 Meetings	

5.01 OATHS. The oath of office shall be required and administered in accordance with the following:

1. **Qualify for Office.** Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after being certified as elected but not later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

2. **Prescribed Oath.** The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Hawarden as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

3. **Officers Empowered to Administer Oaths.** The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective offices:

- A. Mayor
- B. City Clerk
- C. Members of all boards, commissions or bodies created by law.

(Code of Iowa, Sec. 63A.2)

5.02 BONDS. Surety bonds are provided in accordance with the following:

1. **Required.** The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

2. **Bonds Approved.** Bonds shall be approved by the Council.

(Code of Iowa, Sec. 64.19)

3. **Bonds Filed.** All bonds, after approval and proper record, shall be filed with the Clerk.

(Code of Iowa, Sec. 64.23[6])

4. Record. The Clerk shall keep a book, to be known as the “Record of Official Bonds” in which shall be recorded the official bonds of all City officers, elective or appointive.

(Code of Iowa, Sec. 64.24[3])

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.

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

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.

(Code of Iowa, Sec. 22.2 & 22.3A)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer’s custody and appertaining to that office.

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

5.06 MEETINGS. All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in accordance with the following:

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.

(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

4. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting and in accordance with Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.5)

5. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

6. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.8)

5.07 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

(Code of Iowa, Sec. 362.5)

1. Compensation of Officers. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not incompatible with another public office or is not prohibited by law.

(Code of Iowa, Sec. 362.5[3a])

2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.

(Code of Iowa, Sec. 362.5[3b])

3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.

(Code of Iowa, Sec. 362.5[3c])

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

(Code of Iowa, Sec. 362.5[3e])

5. Newspaper. The designation of an official newspaper.

(Code of Iowa, Sec. 362.5[3f])

6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.

(Code of Iowa, Sec. 362.5[3g])

7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.

(Code of Iowa, Sec. 362.5[3h])

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

(Code of Iowa, Sec. 362.5[3i])

9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.

(Code of Iowa, Sec. 362.5[3d])

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2,500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[3k])

11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

(Code of Iowa, Sec. 362.5[3l])

12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.

(Code of Iowa, Sec. 362.5[3m])

5.08 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected, if during that time the compensation of the office has been increased.

(Code of Iowa, Sec. 372.13[9])

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES. Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within thirty (30) days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days after the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled, at the Council's option, by one of the two following procedures:

(Code of Iowa, Sec. 372.13 [2])

1. Appointment. By appointment following public notice by the remaining members of the Council within forty (40) days after the vacancy occurs, except that if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

(Code of Iowa, Sec. 372.13 [2a])

2. Election. By a special election held to fill the office for the remaining balance of the unexpired term as provided by law.

(Code of Iowa, Sec. 372.13 [2b])

5.11 GIFTS. Except as otherwise provided in Chapter 68B of the *Code of Iowa*, a public official, public employee or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a "restricted donor" as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.

(Code of Iowa, Sec. 68B.22)

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten (10) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the *Code of Iowa*, and shall be signed in accordance with the *Code of Iowa*.

(Code of Iowa, Sec. 45.3, 45.5 & 45.6)

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

(Code of Iowa, Sec. 45.4)

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

(Code of Iowa, Sec. 376.8[3])

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose	7.06 Budget Amendments
7.02 Finance Officer	7.07 Accounting
7.03 Cash Control	7.08 Financial Reports
7.04 Fund Control	7.09 Participation in the Iowa Income Offset Program
7.05 Operating Budget Preparation	

7.01 PURPOSE. The purpose of this chapter is to establish policies and provide for rules and regulations governing the management of the financial affairs of the City.

7.02 FINANCE OFFICER. The Clerk is the finance and accounting officer of the City and is responsible for the administration of the provisions of this chapter.

7.03 CASH CONTROL. To assure the proper accounting and safe custody of moneys the following shall apply:

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.21, 12B.10, 12C.1)

7.04 FUND CONTROL. There shall be established and maintained separate and distinct funds in accordance with the following:

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

(IAC, 545-2.5 [384,388], Sec. 2.5[2])

4. Debt Service Fund. Except where specifically prohibited by State law, moneys may be transferred from any other City fund to the Debt Service Fund to meet payments of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.

(IAC, 545-2.5[384,388] Sec. 2.5[3])

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.

(IAC, 545-2.5[384,388] Sec. 2.5[4])

6. Utility and Enterprise Funds. A surplus in a Utility or Enterprise Fund may be transferred to any other City fund, except the Emergency Fund and Road Use Tax Funds, by resolution of the Council. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the Utility or Enterprise Fund. A surplus is defined as the cash balance in the operating account or the unrestricted retained earnings calculated in accordance with generally accepted accounting principles in excess of:

A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months, and

B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.

(IAC, 545-2.5[384,388], Sec. 2.5[5])

7. Balancing of Funds. Fund accounts shall be reconciled at the close of each month and a report thereof submitted to the Council.

7.05 OPERATING BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.

4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

(Code of Iowa, Sec. 384.16[3])

6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have

them available for distribution at the offices of the Mayor and Clerk and at the City library.

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

7. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

7.06 BUDGET AMENDMENTS. A City budget finally adopted for the following fiscal year becomes effective July 1 and constitutes the City appropriation for each program and purpose specified therein until amended as provided by this section.

(Code of Iowa, Sec. 384.18)

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted and subject to protest in the same manner as the original budget.

(IAC, 545-2.2 [384, 388])

2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted and subject to protest in the same manner as the original budget.

(IAC, 545-2.3 [384, 388])

3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.

(IAC, 545-2.4 [384, 388])

4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.

(IAC, 545-2.4 [384, 388])

7.07 ACCOUNTING. The accounting records of the City shall consist of not less than the following:

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.

2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.

3. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

4. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.

5. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

7.08 FINANCIAL REPORTS. The finance officer shall prepare and file the following financial reports:

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

7.09 PARTICIPATION IN THE IOWA INCOME OFFSET PROGRAM. The City may participate in the Iowa Income Offset Program and may enter into a Memorandum of Understanding with the Iowa Department of Administrative Services, State Accounting Enterprise, for such purposes in accordance with the following procedures:

1. The City Administrator shall provide the Iowa Department of Administrative Services with a liability file on a qualifying liability owed to the City by a debtor.

2. When notified by the Department of Administrative Services that there is a match with a debtor, the debtor shall be sent a notification within ten calendar days including the following:

A. The City's right to the payment in question.

B. The City's right to recover payment through this offset procedure.

C. The basis of the City's case in regard to this debt.

D. The right of the debtor to request a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons (e.g., tax refund).

E. The debtor's right to appeal the offset and the procedure to follow in that appeal.

3. A debtor wishing to appeal the offset shall file a written notice of appeal specifying the grounds for appeal with the City Council and the City Administrator within ten (10) calendar days from the date on which the debtor was sent the notification of the offset. Upon the filing of an appeal, the debtor shall be entitled to a hearing at the next regularly scheduled Council meeting or at a special meeting to be

scheduled at the discretion of the Council. The debtor shall be given notice of the time and place of the hearing and shall be entitled to present evidence to the Council. A vote of three Council members shall be required to reverse or modify the offset. A debtor aggrieved by any decision of the City Council may, within thirty (30) days from date of the filing of the decision by the City Council, appeal therefrom to the District Court in accordance with the Iowa Rules of Civil Procedure, Division XIV, certiorari.

(Code of Iowa, Section 8A.504)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

8.01 PURPOSE. The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses and distribution centers.

8.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting 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 competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.
4. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.
5. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses

and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

(Code of Iowa, Sec. 427B.3)

8.04 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

(Code of Iowa, Sec. 427B.3)

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

8.05 LIMITATIONS. The granting of the exemption under this chapter 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.

(Code of Iowa, Sec. 427B.3)

8.06 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

(Code of Iowa, Sec. 427B.4)

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. 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.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty (30) days after such hearing 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 City zoning. 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.

(Code of Iowa, Sec. 427B.4)

8.08 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this chapter ceases to be of benefit to the City, the City Council may repeal this chapter, but all existing exemptions shall continue until their expiration.

(Code of Iowa, Sec. 427B.5)

8.09 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Code of Iowa, Sec. 427B.6)

CHAPTER 9

SPECULATIVE BUILDING PROPERTY TAX EXEMPTIONS

9.01 Purpose

9.02 Eligibility and Effective Date

9.03 Application

9.04 Definitions

9.01 PURPOSE. This chapter establishes a method to allow a property tax exemption for speculative shell buildings constructed by community development organizations, not-for-profit cooperative associations under Chapter 499 of the *Code of Iowa*, and for-profit entities for economic development purposes.

9.02 ELIGIBILITY AND EFFECTIVE DATE. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. This exemption shall be effective for the assessment year in which the building is first assessed for property taxation and all subsequent years until the property is leased or sold or until the exemption is terminated by ordinance of the Hawarden City Council. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to this exemption for subsequent years. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of Section 427B.1 of the *Code of Iowa* if used for purposes set forth in Section 427B.1.

9.03 APPLICATION. An application shall be filed pursuant to Section 427B.4 of the *Code of Iowa* for each project for which an exemption is claimed.

9.04 DEFINITIONS. For purposes of this chapter, the definitions in Section 427.1(27) of the *Code of Iowa* will apply.

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CHAPTER 10

URBAN RENEWAL

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.

ORDINANCE NO.	ADOPTED	NAME OF AREA
524	November 19, 1990	Hawarden Urban Renewal Area
546	December 5, 1994	Hawarden Urban Renewal Areas A, B and C
589	December 18, 2000	2000 Addition to Hawarden Urban Renewal Area A
632	June 8, 2005	Closed an Urban Renewal Area
645	September 26, 2007	Hawarden Urban Renewal Area – Industrial TIF D

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