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ORDINANCE NO. 04-4125

**ORDINANCE AMENDING TITLE 10 OF THE CITY CODE, ENTITLED "USE OF PUBLIC WAYS AND PROPERTY," TO CREATE A UNIFORM PERMITTING PROCESS, TO ESTABLISH REQUIREMENTS FOR THE FARMERS MARKET, TO PROVIDE FOR THE NONCOMMERCIAL PLACEMENT OF OBJECTS IN CITY PLAZA ON A TEMPORARY BASIS, TO MODIFY THE PROVISION ON RESIDENTIAL PICKETING, TO CLARIFY THE CURRENT PROVISIONS REGULATING MOBILE VENDORS AND AMBULATORY VENDORS, TO CODIFY SPECIFIC ADMINISTRATIVE RULES AFFECTING SAID VENDORS, AND TO MAKE ADDITIONAL NONSUBSTANTIVE CHANGES.**

WHEREAS, because there are competing uses of the public right of way including streets, City Plaza, and parks, it is necessary to impose time, place, and manner requirements on those who seek to hold parades and public assemblies;

WHEREAS, regulating the public right of way ensures the safe movement of pedestrians;

WHEREAS, it is desirable that there be uniformity in the permitting process and specific criteria to guide and limit the discretion of city employees charged with granting or denying permits for uses of City property;

WHEREAS, except for groups or entities that are affiliated with the City, such as Iowa City Kickers, the use of public property should be either by a permit or by registration depending on the type of use;

WHEREAS, rules regarding the length and placement of noncommercial objects and structures in City Plaza should be enacted;

WHEREAS, City oversight of ambulatory vendors and mobile vendors is primarily through administrative rules which should be codified;

WHEREAS, the existing provision on focused residential picketing presents enforcement issues;

WHEREAS, the right of privacy and the feeling of well-being and tranquility which the residents of the City should enjoy in their dwellings should be preserved;

WHEREAS, the practice of focused residential picketing before or about a dwelling, targeted at the occupant or occupants of such dwelling causes emotional disturbances and distress to the occupant or occupants and disturbs the sense of peace and tranquility enjoyed by individuals in their dwellings;

WHEREAS, there currently is no provision for the regulation of the Farmers Market, and a registration process should be created that sets up a procedure for Farmers Market vendors to register for exclusive use of a stall, to appeal the denial of said use, and to provide for revocation of said authorization under specific conditions; and

WHEREAS, it is in the best interest of the City to adopt these amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CITY, IOWA:

**SECTION I. AMENDMENTS.**

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 1, entitled "Definitions and Exemptions," Subsection A, entitled "Definitions," is hereby amended by adding the following new definitions:

**AFFILIATED GROUP:** A group of persons or an entity engaged in sports and/or recreation that a) is affiliated with and either sponsored or co-sponsored by the City of Iowa City including, but not limited to organized youth soccer, boys' baseball, and girls' softball; and b) has executed a memorandum of understanding with the City for the use of public property.

**APPLICANT:** A person who applies for a parade/public assembly permit as provided in this Chapter.

**PARADE/PUBLIC ASSEMBLY PERMIT:** Written authorization by the City for use of public property, including the public right of way, as provided in this Chapter.

**PARK:** Any park or playground owned or controlled by the City, including streets, trails, and roadways therein.

**PERSON:** Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.

**PUBLIC ASSEMBLY:** Any meeting, demonstration, picket line, rally or gathering of more than twenty-five (25) persons on the public right of way or one-hundred (100) persons in a park -for a common purpose as a result of prior planning that interferes with the normal flow or regulation of pedestrian or vehicular traffic on the public right of way or in a park or occupies any area in the public right of way or in a park.

**PUBLIC SIDEWALK:** The improved portion of public right of way dedicated to and/or intended primarily for pedestrian use.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 1, entitled "Definitions and Exemptions," Subsection A, entitled "Definitions," is hereby amended by repealing the definitions of "Parade" and "Public Way" and substituting in their place the following new definitions:

**PARADE:** A march or procession of more than twenty-five (25) persons, vehicles or other forms of transportation, such as bicycles, or combination thereof, in or upon the public right of way or in a park that necessitates or results in the exclusion, in whole or in part, of use of the public right of way or the park by others.

**PUBLIC RIGHT OF WAY:** The area on or below a public roadway, highway, street, bicycle lane, alley, and public sidewalk which is designed for vehicular, bicycle or pedestrian travel and dedicated to public use, including City Plaza as defined in Title 10, Chapter 5 of this Code

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 1, entitled "Definitions and Exemptions," Subsection A, entitled "Definitions" is hereby amended by repealing the definitions of "demonstration," "picket," "protestor," and "public entertainment" in their entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 1, entitled "Definitions and Exemptions," Subsection B, entitled "Exemptions," is hereby amended by deleting Subsection B in its entirety and substituting in its place the following:

B. Exemptions: The following are exempt from the provisions of this Chapter:

1. Funeral processions.
2. A gathering of an affiliated group or subpart thereof.
3. Spontaneous events responding to news or affairs coming into public knowledge within three (3) days of such public assembly or parade provided that the organizer thereof gives written notice to the city manager or designee at least one (1) hour prior to such parade or public assembly.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 2, entitled "Permit and Compliance Required," is hereby amended by deleting Section 2 in its entirety and substituting in its place the following:

- A. It shall be unlawful for any person or group of persons to engage in, present, conduct or stage a parade or public assembly without first having obtained a parade/public assembly permit as provided in this Chapter.
- B. No person shall knowingly participate in or conduct a parade or public assembly unless a parade/public assembly permit has been obtained.
- C. All parades and public assemblies shall be conducted in accordance with the provisions of the parade/public assembly permit and shall be in compliance with all applicable State and local laws. No person shall knowingly fail to comply with the terms and conditions of a parade/public assembly permit.
- D. No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or public assembly or with any person, vehicle or animal participating or used in any parade or public assembly.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 3, entitled "Application for Permit," is hereby amended by deleting Section 3 in its entirety and substituting in its place the following:

A. Filing Application:

1. An application for a parade/public assembly permit shall be filed with the City Manager or designee by any person or group of persons desiring to use any public right of way as provided in this Chapter. If the applicant is not a natural person, the applicant shall identify a natural person who has authority to act for the applicant with regard to the parade or public assembly.
2. All applications shall be filed at least three (3) working days in advance of the date of the requested use.

3. Applications shall be made on forms prepared by the City Manager or designee.

B. Application Form:

The application form shall contain the following information:

1. Name and address of the applicant.
2. An acknowledgement to be signed by a natural person that he or she has authority to act on behalf of the group that is requesting the permit.
3. The type of event that is planned, namely parade, or public assembly.
4. Proposed location or locations.
5. Expected size of group.
6. Date, time and expected duration of the use.
7. Names and contact information of the person(s) to be present at and who will serve as the contact person(s) for the applicant at the proposed parade or public assembly.
8. List and description of mechanical or electronic equipment to be used, including sound amplification.
9. Number and type of any motor vehicles or other forms of transportation to be used, including bicycles.
10. Number and type of any animals to be used.
11. Proposal to monitor the event, including the names of any person not employed by the City who will be responsible for setting up, cleaning up, or maintaining order and whether the police department will be needed to assist in maintaining order.
12. Proposal for cleanup.
13. Except if the parade or public assembly is held entirely on a public sidewalk, on city plaza, or in a park and does not require any equipment, cables, objects, structures, or similar items to be placed on the sidewalk, city plaza, or park an agreement in which the applicant shall agree to:  
pay on behalf of the City all sums which the City shall be obligated to pay by reason of any liability imposed upon the city for damages of any kind resulting from use of public property and the public right of way, whether sustained by any person or person, caused by accident or otherwise and shall defend at its own expense and on behalf of the City any claim against the City arising out of the use of public property and the public right of way.
14. Except if the parade or public assembly is held entirely on a public sidewalk, on city plaza, or in a park and does not require any equipment, cables, objects, structures, or similar items to be placed on the sidewalk, city plaza, or park, insurance is required in the reasonable amount necessary to minimize risk of harm to persons and property based on the nature and size of the event, as determined by the City's Risk Manager. The speech content of the parade or public assembly shall not be a factor in determining the amount of insurance. The insurance requirement may be waived if applicant demonstrates inability to obtain insurance or to pay the cost of insurance.
15. Any other information that the City Manager or designee finds necessary.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 4, entitled "Issuance or Denial of Permit," is hereby amended by deleting Section 4 in its entirety and substituting in its place the following:

- A. Standards for Issuance of Permit: The City Manager or designee shall grant or deny the application for a permit in writing, which shall be mailed by ordinary mail or personally delivered to the applicant and stating the reasons therefore within seven (7) working days of the application being filed, and no later than the day prior to the event assuming the application is timely filed. The City Manager or designee shall examine the application and shall grant a permit if the following conditions are met:
1. The use will not unreasonably interfere with the privacy, safety, security, convenience and tranquility of the residents or inhabitants of the area in light of the date and time of said proposed use.
  2. The proposed public right of way can accommodate the group or use, based both on group size and on health and sanitation facilities, whether available or to be provided by applicant.
  3. The proposed use or activity is compatible with the normal activity of the proposed public right of way at the requested time or date.
  4. The application demonstrates the applicant has the means, planning and coordination to hold the proposed event, considering the time of day, location, public facilities available, traffic

control, parking requirements and any monitoring required to protect the public health and safety.

5. The event will not interfere with either another event for which a permit has already been granted or an event organized and conducted by the City for the same date and time
  6. The use will not substantially interrupt the flow of street and/or pedestrian traffic.
  7. The use will not require the excessive diversion of police from other duties or substantially interfere with the City's firefighting operations.
  8. The use does not create undue health or safety hazards
  9. All applicable fees have been paid.
  10. The application is fully completed and executed.
  11. The indemnification agreement has been signed, if applicable.
  12. A certificate of insurance showing compliance with this section has been provided, if applicable.
  13. The application contains no material falsehood or misrepresentation.
  14. The applicant is legally competent to contract and to sue and be sued.
  15. The applicant has not damaged City property, and if the applicant has, the damage has been paid in full, and has paid all other outstanding and unpaid debts to the City.
  16. The use or activity intended by the applicant is not prohibited by law.
  17. The applicant paid clean up costs, if any, within thirty (30) days of the date of invoice as the result of a previously issued permit.
  18. Additional police protection, if required under this chapter, has been secured.
- B. Contents and Conditions of Permit: The permit shall contain the following information:
1. Name, address, and telephone number of permittee.
  2. Time, date and place of the permitted activity.
  3. If a parade, the route and staging area.
  4. Number of monitors or policing personnel required for safe use of the public right of way.
  5. Such other information that the City Manager or designee finds necessary for the enforcement of this Chapter.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 5, entitled "Appeals Regarding Issuance or Denial of Permit," is hereby amended by deleting Section 5 in its entirety and substituting in its place the following:

- A. Any party aggrieved by the City Manager's or designee's decision to grant or deny a permit under this Chapter may appeal the determination to the City Council if, within five (5) working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code.
- B. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's or designee's decision. The City Council's decision is the final decision.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," Section 6, entitled "Revocation of Permit," is hereby amended by deleting Section 6 in its entirety and substituting in its place the following:

The City Manager or designee, or the City Council if issued following an appeal, may revoke a parade/public assembly permit if:

- A. it is determined that the permittee has misstated any material fact in the application,
- B. there is a substantial and material variance between the information in the application and the actual facts or those facts which appear reasonably to have occurred,
- C. when it is determined by the Chief of Police or the Fire Chief that, by reason of disaster, public calamity, riot or other emergency, the public safety requires such revocation,
- D. the permittee's insurance has been cancelled, or
- E. the permittee is operating in violation of the terms and conditions of the permit or local, state, or federal law.

A permit holder may appeal the revocation in the same manner as appealing the issuance or denial of a permit.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," is hereby amended by adding a new Section 7, entitled "Sale or Assignment of Permit," as follows:

The sale, transfer, or assignment of a permit is prohibited.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," is hereby amended by adding a new Section 8, entitled "Fees," as follows:

Fees for permits shall be set by resolution of City Council.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," is hereby amended by adding a new Section 9, entitled "Police Protection," as follows:

- A. The Chief of Police or designee shall determine whether and to what extent additional police or security protection is reasonably necessary for the parade or public assembly for traffic control and public safety. The Chief of Police or designee shall base this decision on the size, location, duration, time and date of the event, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the public right of way. The speech content of the event shall not be a factor in determining the amount of police protection necessary. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police or security protection for the parade or public assembly is deemed necessary by the Chief of Police or designee, the applicant shall be so informed. The applicant shall have the duty to secure the police or security protection deemed necessary by the Chief of Police or designee at the sole expense of the applicant.
- B. Persons engaging in parades or public assemblies conducted for the primary purpose of public issue speech protected under the First Amendment are not required to pay for any police protection provided by the City.

Title 10, entitled "Use of Public Ways and Property," Chapter 1, entitled "Parades and Public Assemblies," is hereby amended by adding a new Section 10, entitled "Penalties," as follows:

Any violation of this Chapter shall be considered a simple misdemeanor or municipal infraction as provided for in Title 1, Chapter 4 of this Code.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," is hereby amended by changing the title of Chapter 2 to "Picketing."

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 1, entitled "Definitions," is hereby amended by adding the following new definitions:

**PICKETER:** A person who engages in picketing with or without signs or placards.

**PICKETING:** The practice of standing, marching, congregating, protesting, demonstrating, or patrolling by one or more persons for the purpose of persuading, discussing, educating, advocating, or informing another person or persons or for the purpose of protesting some action, attitude, policy, or belief. It does not include social, random, or other everyday communication.

**PRIVATE RESIDENCE:** A single-family, duplex, or multi-family dwelling.

**PUBLIC RIGHT OF WAY:** The area on or below a public roadway, highway, street, bicycle lane, alley, and public sidewalk which is designed for vehicular, bicycle or pedestrian travel and dedicated to public use, including City Plaza as defined in Title 10 Chapter 5.

**PUBLIC SIDEWALK:** The improved portion of public right of way dedicated to and/or intended primarily for pedestrian use.

**RESIDENTIAL PICKETING:** Picketing that is directed, focused, or targeted at a particular private residence and that takes place directly in front of the particular private residence or the private residences on either side of the targeted private residence.

**RESIDENTIAL ZONE:** All Zones defined in Title 14, Chapter 6, Article D of this Code.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 1, entitled "Definitions," is hereby amended by deleting the definitions of "demonstration," "picket," "protester," and "public way" in their entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 2, entitled "Use of Streets and Sidewalks for Picketing, Protesting and Demonstrating," is hereby amended by changing the title of Section 2 to "Use of Sidewalks for Picketing."

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 2, entitled "Use of Streets and Sidewalks for Picketing, Protesting and Demonstrating," is hereby amended by deleting Section 2 in its entirety and substituting in its place the following:

- A. No picketing except as authorized by a parade/public assembly permit issued under Title 10, Chapter 1 of the Code, shall be conducted on that portion of the streets used primarily for vehicular or bicycle traffic.

- B. Interference with Traffic, Businesses and Public Facilities: Picketers shall not block or obstruct free passage of any pedestrian, vehicular traffic, or bicycle traffic or interfere with ingress or egress to any business or public facility.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 3 entitled "Prohibited Acts and Conditions," is hereby amended by deleting Section 3 in its entirety, by substituting in its place the following, and by entitling the new Section 3 as "Residential Picketing":

- A. It shall be unlawful for any person to engage in residential picketing.
- B. Nothing herein shall prohibit: 1) The residential picketing of a residence which is used as the occupant's sole place of business; 2) The residential picketing of a private residence used as a public meeting; 3) A person or group of persons from marching without stopping at a particular private residence; or 4) A person or group of persons from marching on a defined route without stopping at any particular private residence.
- C. Before a person may be cited for violation of this provision, the person must have been ordered to move, disperse, or otherwise remedy the violation by either a police officer or a person with authority to control the use of the private residence which is the focus or target of the residential picketing.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 4 entitled "Advanced Notice of Proposed Picketing, Protesting or Demonstrating," is hereby amended by deleting Section 4 and substituting in its place the following:

- A. Police officers are authorized to disperse persons who are picketing whenever such picketing is in violation of this Chapter and poses a threat to public health, safety or orderly flow of traffic.
- B. It shall be unlawful for any person to refuse to disperse or move on when so directed by a police officer as herein provided.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 5 entitled "Duty to Disperse as Directed by Police," is hereby amended by deleting Section 5 in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 2, entitled "Public Demonstrations," Section 6 entitled "Obstruction of Public Ways," is hereby amended by deleting Section 6 in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 3, entitled "Commercial Use of Sidewalks," Section 1, entitled "Definitions," is hereby amended by adding the following new definitions:

**APPLICANT:** A person who applies for a permit as provided in this Chapter.

**MOBILE VENDING LOCATION:** An appropriate area to operate a mobile vending cart as determined and assigned by the City Manager, or designee, in writing within the boundaries of city plaza and the 100, 200, and 300 blocks of Iowa Avenue for the operation of mobile vending carts. Each mobile vending permit shall carry with it the authorization to operate at one or two (2) designated locations.

**MOBILE VENDOR PERMIT:** Written authorization by the City for use of public property, including public right of way, by a mobile vendor as provided in this Chapter.

**PERSON:** Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.

**TEMPORARY USE OF SIDEWALK PERMIT:** Written authorization by the City for use of sidewalk as provided in this Chapter.

Title 10, entitled "Use of Public Ways and Property," Chapter 3, entitled "Commercial Use of Sidewalks," Section 1, entitled "Definitions," is hereby amended by deleting the definition of "public right of way" and substituting in its place the following new definition:

**PUBLIC RIGHT OF WAY:** The area on or below a public roadway, highway, street, bicycle lane, alley, and public sidewalk which is designed for vehicular, bicycle or pedestrian travel and dedicated to public use, including City Plaza as defined in Title 10, Chapter 5 of the Code.

Title 10, entitled "Use of Public Ways and Property," Chapter 3, entitled "Commercial Use of Sidewalks," Section 2, entitled "Use of Public Sidewalks Restricted," is hereby amended by deleting Section 2 in its entirety and substituting in its place the following:

Use of public sidewalks for any commercial purpose, including sidewalk cafes, shall be unlawful except as specifically provided herein or as specifically authorized by this chapter.

Title 10, entitled "Use of Public Ways and Property," Chapter 3, entitled "Commercial Use of Sidewalks," Section 4, entitled "Number of Permits; Use Limitations; Excluding Side-walk Cafes and

Mobile Vending Carts," is hereby amended by deleting Section 4 in its entirety, by substituting in its place the following, and by entitling new Section 4 as "Temporary Use of Sidewalk Permits":

The City Manager or designee is authorized to issue no more than two Temporary Use of Sidewalk Permits per calendar year to businesses or business organizations for any commercial purpose in commercially zoned districts excluding permits for sidewalk cafes, ambulatory vendors, and mobile vending carts. Temporary Use of Sidewalk Permits shall be limited to the temporary use of sidewalks and public right-of-way abutting said businesses and shall be limited to no more than three (3) days for any one permit.

A. Application for Permit.

1. Filing an Application.

- a. An application for a Temporary Use of Sidewalk Permit shall be filed with the City Manager or designee by any person or group of persons desiring to use the public right of way as provided in this Chapter. If the applicant is not a natural person, the application shall identify a natural person who has authority to act for the applicant with regard to the temporary use of the sidewalk.
- b. All applications shall be received five (5) days before proposed use.
- c. Applications shall be made on forms prepared by the City Manager or designee.

2. Application Form.

The application form shall contain the following information:

- a. Name, address, and telephone number of the applicant.
- b. An acknowledgement to be signed by a natural person that he or she has authority over the permitted use of the sidewalk.
- c. Name and address of applicant's business.
- d. Days and hours of requested use.
- e. Description of use.
- e. An agreement in which the applicant shall agree to:  
pay on behalf of the City all sums which the City shall be obligated to pay by reason of any liability imposed upon the city for damages of any kind resulting from use of public property and the public right of way, whether sustained by any person or person, caused by accident or otherwise and shall defend at its own expense and on behalf of the City any claim against the City arising out of the use of public property and the public right of way.
- f. Insurance as required in a reasonable amount necessary to minimize risk of harm to persons or property based on the nature and size of the event, as determined by the City's Risk Manager. The insurance requirement may be waived if applicant demonstrates inability to obtain insurance or to pay the cost of insurance.
- g. Any other information that the City Manager or designee finds necessary.

B. Issuance or Denial of Permit.

1. Standards for Issuance of Permit. The City Manager or designee shall grant or deny the application for Temporary Use of Sidewalk Permit in writing, which shall be mailed by ordinary mail or personally delivered to the applicant, and state the reasons therefore within seven (7) working days of the application being filed. The City Manager or designee shall examine the application and shall issue said permit if the following conditions are met:
  - a. The applicant's proposed use will not impede the free flow of pedestrian traffic along the public right of way or in or out of adjacent properties.
  - b. All applicable fees have been paid.
  - c. The application is fully completed and executed.
  - d. The indemnification agreement has been signed.
  - e. A certificate of insurance showing compliance with this section has been provided.
  - f. The application contains no material falsehood or misrepresentation.
  - g. The applicant is legally competent to contract and to sue and be sued.
  - h. The applicant has not damaged City property, and if the applicant has, the damage has been paid in full, and has paid all other outstanding and unpaid debts to the City.
  - i. No permit has already been issued for the same time and place.
  - j. The use does not conflict with previously planning programs organized and conducted by the City and previously scheduled for the same time and place.
2. Contents and Conditions of Permit. The permit shall contain the following information:
  - a. Name, telephone number, and address of permittee.

- b. Time, date and place of the permitted activity.
  - c. The permittee shall only offer for sale its own goods and products and shall not offer for sale any tobacco product.
  - d. Such other information that the City Manager or designee finds necessary for the enforcement of this Chapter.
- C. Appeals. Any party aggrieved the City Manager's or designee's decision to grant or deny a permit under this Chapter may appeal the determination to the City Council if, within five (5) working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's or designee's decision. The City Council's decision is the final decision.
- D. The sale, transfer, or assignment of a temporary use of sidewalk permit is expressly prohibited.
- E. Revocation of Permit. The City Manager or designee, or the City Council if issued following an appeal, may revoke a permit if:
- 1. It is determined by the Chief of Police or the Fire Chief that, by reason of disaster, public calamity, riot or other emergency, the public safety requires such revocation is necessary to protect health, safety, and welfare
  - 2. The permittee has misstated any material fact in the application
  - 3. There is a substantial and material variance between the information in the application and the actual facts or those facts which appear reasonably to have occurred.
  - 4. The permittee is operating in violation of the terms and conditions of the permit.
  - 5. The permittee is operating in violation of the terms of the permit or local, state, or federal law.
  - 6. The permittee's insurance has been cancelled.
- A permit holder may appeal the revocation in the same manner as appealing the issuing or denying of a permit.
- F. Fees. Fees for permits shall be set by resolution of City Council.
- Title 10, entitled "Use of Public Ways and Property," Chapter 3, entitled "Commercial Use of Sidewalks," Section 5, entitled "Use by Mobile Vendors," is hereby amended by deleting Section 5 in its entirety and substituting in its place the following:
- A. Application for Permit
- 1. Filing an Application.
    - a. An application for a mobile vendor permit shall be filed with the City Manager or designee by any person or group of persons desiring to use the public right of way as provided in this Chapter. If the applicant is not a natural person, the applicant shall identify a natural person who has authority to act for the applicant with regard to the mobile vending operation.
    - b. All applications for mobile vendor permits must be received by January 31 of the calendar year for which the permit will be issued.
    - c. Applications shall be made on forms prepared by the City Manager or designee.
  - 2. General Provisions
    - a. No more than five (5) permits shall be issued each calendar year for the City Plaza and no more than two (2) permits shall be issued each calendar year for the 100, 200, and 300 blocks of Iowa Avenue.
    - b. No tobacco or alcoholic beverages shall be offered for sale.
    - c. At a minimum, mobile vendors shall operate during the following hours from May 1 to October 1: (1) 11:00 a.m. to 2:00 p.m. on Monday through Saturday; (2) 5:00 p.m. to 8:00 p.m. on Thursday through Saturday; and (3) three (3) additional hours each day on Monday through Wednesday as selected by the permittee.
  - 3. Application Form
    - The application form shall contain the following information:
      - a. Name, address, and telephone number of the applicant.
      - b. An acknowledgement to be signed by a natural person that he or she has authority over the permitted use of the sidewalk.
      - c. List of past permits issued.
      - d. Description of food and/or beverage product to be sold.
      - e. Requested location or locations of operation.



- f. Electrical appliances to be used.
- g. Fuel needed to power equipment.
- h. Hours of operation.
- i. Months of operation.
- j. Location of overnight cart storage.
- k. Description of cart including its dimensions.
- l. The three (3) additional hours the permittee has selected to operate on Mondays through Wednesdays.
- m. An agreement in which the applicant shall agree to:
  - pay on behalf of the City all sums which the City shall be obligated to pay by reason of any liability imposed upon the city for damages of any kind resulting from use of public property and the public right of way, whether sustained by any person or person, caused by accident or otherwise and shall defend at its own expense and on behalf of the City any claim against the City arising out of the use of public property and the public right of way.
- n. Acknowledgment that the applicant has contacted the Johnson County Health Department and has reviewed health code requirements.
- o. Insurance is required in a reasonable amount necessary to minimize risk of harm to persons and property based on the intended use, as determined by the City's Risk Manager.
- p. Any other information that the City Manager or designee finds necessary.

**B. Issuance or Denial of Permit**

Standards. The City Manager or designee shall grant or deny the application for a mobile vendor permit in writing within a reasonable time, which shall be mailed by ordinary mail or personally delivered to the applicant, and state the reasons therefore no later than sixty (60) calendar days after the application being filed. The length of time which is reasonable shall be determined by the type of use requested, the information supplied, the time the application is filed, and the extent of advance preparation and planning demonstrated and reasonably required. The City Manager or designee shall issue a permit if the following conditions have been met:

- 1. A mobile vending location is available which will not interfere the free movement within the emergency/service lane.
- 2. The applicant's proposed mode of operation will not impede the free flow of pedestrian traffic along the public right of way or in or out of adjacent properties.
- 3. The applicant agrees to operate the applicant's business only at assigned mobile vending locations.
- 4. The dimensions of the applicant's vending cart shall not exceed a size of four feet (4') wide by nine feet (9') long by eight feet (8') high.
- 5. The applicant has adequate storage for the mobile vending cart off the city plaza or public right of way.
- 6. The applicant has obtained all necessary permits required by the county department of health.
- 7. All applicable fees have been paid.
- 8. The application is fully completed and executed.
- 9. The indemnification agreement has been signed.
- 10. A certificate of insurance showing compliance with this section has been provided.
- 11. The application contains no material falsehood or misrepresentation.
- 12. The applicant has not damaged City property, and if the applicant has, the damage has been paid in full, and the applicant has paid all other outstanding and unpaid debts to the City.
- 13. The applicant has complied with applicable laws concerning the sale or offering for sale of any goods or services.
- 14. The use or activity intended by the applicant is not prohibited by law.
- 15. No other mobile vendor permit has been issued for substantially the same food or beverage product.

Contents and Conditions of Permit: The permit shall contain the following information:

- 1. Permittee's name, telephone number, and address.
- 2. Time, date and place of the permitted activity.
- 3. The permittee's mobile vending location.

4. Such other information that the City Manager or designee finds necessary for the enforcement of this Chapter.

C. Appeals

Any party aggrieved by the City Manager's or designee's decision to grant or deny a mobile vending permit may appeal the determination to the City Council if, within five (5) working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's or designee's decision. The City Council's decision is the final decision.

D. The sale, transfer, or assignment of a mobile vending permit is expressly prohibited.

E. Revocation of Permit. The City Manager or designee, or City Council if issued following an appeal, may revoke a mobile vending permit if:

1. It is determined by the Chief of Police or the Fire Chief that, by reason of disaster, public calamity, riot or other emergency, the public safety requires such revocation.
2. The permittee has misstated any material fact in the application.
3. There is a substantial and material variance between the information in the application and the actual facts or those facts which appear reasonably to have occurred.
4. The permittee is operating a mobile vending cart in violation of the terms of the permit.
5. The permittee's insurance has been cancelled.
6. The permittee violates any administrative rules.

A permittee may appeal the revocation in the same manner as appealing the issuance or denial of a permit.

F. Fees. Fees for mobile vending permits shall be set by resolution of City Council.

G. Administrative Rules. The City Manager is authorized to establish administrative rules not inconsistent with any ordinance to carry out the provisions of this Chapter. A copy of said rules shall be on file with the City Clerk.

Title 10, entitled "Use of Public Ways and Property," Chapter 4, entitled "Posting Bills" is hereby amended by changing the title of chapter 4 from "Posting Bills" to "Posting Handbills."

Title 10, entitled "Use of Public Ways and Property," Chapter 4, entitled "Posting Bills," Section 1, entitled "Definitions," is hereby amended by adding the following new definitions:

**COMMERCIAL HANDBILL:** Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature: (1) which advertises for sale any merchandise, product, commodity, or thing (2) which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; (3) which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, or (4) which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

**NONCOMMERCIAL HANDBILL:** Any printed or written matter that is not a newspaper.

**PERSON:** Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.

Title 10, entitled "Use of Public Ways and Property," Chapter 4, entitled "Posting Bills," Section 1, entitled "Definitions," is hereby amended by deleting the definition of "billposters and distributors" in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 4, entitled "Posting Bills," Section 2, entitled "Manner of Distribution Generally; Unlawful Distributions of Public Ways," is hereby amended by deleting Section 2 in its entirety and substituting in its place the following:

Distribution of commercial handbills and noncommercial handbills shall be made in such a manner so as not to create a public nuisance.

Title 10, entitled "Use of Public Ways and Property," Chapter 4, entitled "Posting Bills," is hereby amended by adding as new Section 3, entitled "Posting of Handbill Prohibited," as follows:

In the right-of-way or on public land, no person shall post, stick, stamp, paint or otherwise affix, or cause the same to be done by any person, any commercial handbill or noncommercial handbill calculated to attract the attention of the public, upon any right-of-way or any lamp post, electric light, telephone pole, bulletin board of a kiosk, railway structure, hydrant, tree or tree-box, or upon the columns, trusses, girders, railings, gates or other public part of any public bridge or viaduct, or other public structure or building, or upon any pole, box or fixture of the fire alarm except as may be authorized or required by law.

Title 10, entitled "Use of Public Ways and Property," Chapter 4, entitled "Posting Bills," Section 3, entitled "Billboard Maintenance Requirements" and Section 4, entitled "Penalties", are hereby amended by renumbering Section 3 as Section 4 and renumbering Section 4 as Section 5 respectively.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 1, entitled "Purpose and Intent," is hereby amended by adding new Subsections E and F as follows:

E. Supporting economic activity by allowing vendors to sell their goods in City Plaza.

F. Ensuring safe movement of pedestrians in City Plaza.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 2, entitled "Definitions," is hereby amended by adding the following new definitions:

**AMBULATORY VENDOR PERMIT:** Written authorization by the City for use of public property, including public right of way, by an ambulatory vendor as provided in this Chapter.

**APPLICANT:** A person who applies for a permit as provided in this Chapter.

**MOBILE VENDOR PERMIT:** Written authorization by the City for use of public property, including public right of way, by a mobile vendor as provided in Chapter 3.

**NEWSPAPER:** Any newspaper of general circulation as defined by general law, any newspaper duly entered with the U.S. Postal Service, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law. And, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

**PERSON:** Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.

**PUBLIC RIGHT OF WAY:** The area on or below a public roadway, highway, street, cartway, bicycle lane, alley, and public sidewalk which is designed for vehicular, bicycle or pedestrian travel and dedicated to public use, including City Plaza.

**ZONE 1:** The ten-foot (10') strip directly abutting the private property lines in City Plaza. Zone 1 extends the length of the City Plaza along all sides of the Plaza. Zone 1 is illustrated on the City Plaza Map that is kept on file in the office of the City Clerk, which can be amended, from time to time, by resolution of the City Council.

**ZONE 2:** The six-foot (6') pedestrian lanes in the City Plaza adjoining Zone 1 on each side, the landscaped areas, the areas with street furniture and features and other areas as specified on the City Plaza Map. Zone 2 is illustrated on the City Plaza Map that is kept on file in the office of the City Clerk, which can be amended, from time to time, by resolution of the City Council.

**ZONE 3:** The emergency/service lane in City Plaza. Zone 3 is illustrated on the City Plaza Map that is kept on file in the office of the City Clerk, which can be amended, from time to time, by resolution of the City Council.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 2, entitled "Definitions," is hereby amended by deleting the definitions of "ambulatory vendor" and "kiosk" and by substituting in their place the following new definitions:

**AMBULATORY VENDOR:** A person selling goods or services, including arts and crafts, while moving through Zones 1, 2 and 3 and operating without the use of a mobile vending cart and with a minimum of equipment such as a person selling balloons and a portrait artist.

**KIOSK:** A small, public-owned structure that is stationary and that contains newspaper vending units.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 2, entitled "Definitions," is hereby amended by deleting the definitions of "mobile vending cart" and "mobile vendor" in their entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 3, entitled "Description of Mall Zones," is hereby amended by deleting Section 3 in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 4, entitled "Bicycle and Nonmotorized Vehicle Restrictions," is hereby amended by deleting Section 4 in its entirety and by substituting the following new section in its place and renumbering it Section 3:

- A. Bicycles. No person shall ride a bicycle within the city plaza; no bicycles shall be left unattended within city plaza unless located in a bicycle rack; no bicycle shall be locked or affixed to any post or structure other than a bicycle rack.
- B. Nonmotorized Vehicles. No person shall travel upon or operated a nonmotorized vehicle within the city plaza, except for a persons with disabilities using a vehicle designed for use by person with disabilities.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 5, entitled "Motor Vehicle Regulations," is hereby amended by deleting Section 5 in its entirety and by substituting the following new section in its place and renumbering it Section 4:

No person shall operate a motor vehicle, except emergency vehicles, within the limits of city plaza without authorization issued by the city manager or designee:

- A. Any business located on property which does not otherwise abut a public right of way other than city plaza may be granted continuous motor vehicle authorization upon a showing that such is necessary to provide for the delivery of goods to or from the business. Such authorization shall allow the vehicle within the city plaza only during active loading and unloading.
- B. Any person may be granted such authorization upon a showing that the placement or operation of a motor vehicle upon city plaza for a specified, limited period of time is necessary for delivery or other legitimate purpose.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 6, entitled "Removal of Snow and Ice Accumulations from Building Runoff," is hereby amended by deleting Section 6 in its entirety and by substituting the following new section in its place and renumbering it Section 5:

Removal of accumulations of snow and/or ice in Zone 1 of city plaza resulting from building runoff shall be the responsibility of the adjoining property owner.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 7, entitled "Animals Restricted," is hereby amended by deleting Section 7 in its entirety and by substituting the following new section in its place and renumbering it Section 6:

No person shall take, accompany or allow any animal into city plaza except as permitted in Title 8, Chapter 4, Section 12 of the Code. This provision shall not apply to an animal trained to assist persons with disabilities or an animal that is securely confined within an animal carrier, kennel, cage, or crate and does not create a public nuisance.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 8, entitled "Use of City Plaza," is hereby amended by deleting Section 8 in its entirety and by substituting the following new section in its place and renumbering it Section 7:

- A. No commercial use of city plaza is allowed except as authorized in this Chapter.
- B. Private Uses Authorized in Each Zone
  - 1. Zone 1:
    - a. Ambulatory Vendor Permits, Arts and Crafts Vendor Permits, Sidewalk Café Permits, Parade/Public Assembly Permits.
    - b. Building extensions where, in the sole judgment of the city council, such extensions enhance the quality of city plaza.
    - c. Landscaping with the permission of the City Manager or designee.
    - d. Display window extensions with the permission of the City Manager or designee
    - e. Building front and/or basement extensions, provided the use of the extension is the same as the store activity with the permission of the City Manager or designee.
  - 2. Zone 2:
    - a. Permits issued under either this chapter or Chapter 1.
    - b. Landscaping with the permission of the City Manager or designee.
    - c. Newspaper racks.
    - d. Temporary placement of noncommercial objects and structures as authorized herein.
  - 3. Zone 3:
    - a. Ambulatory Vendor Permits.
- C. Modification Of Plaza Landscaping: City Plaza landscaping may be modified or removed to a limited extent if the net effect enhances the ambience of the City Plaza and if approved by the City Manager or designee. In such cases, the person must agree to restore the City Plaza

landscaping to its original condition and provide a bond or escrow account in an amount determined by the City Manager or designee.

- D. Days and Hours of Operation: Buildings extended onto the City Plaza are to be open at least during normal retail business hours, Monday through Saturday, throughout the year. Mobile vendors shall operate during the times proscribed in this chapter.
- E. The City Manager or designee may:
1. Require a reasonable amount of insurance coverage for any use in the City Plaza not inconsistent with other provisions of this Title to minimize the risk of harm to persons and property when the activity or event being sponsored on City Plaza creates a higher than usual risk of City or public liability exposure due to the nature of the activity or event or due to the expected number of participants or spectators as determined by the City's Risk Manager;
  2. Waive the insurance requirements for events or activities sponsored by the agencies of the State, the University of Iowa or other governmental subdivisions, provided such entities enter into an agreement satisfactory to the City Attorney to protect and hold harmless the City, its officers, agents and employees from and against all claims, lawsuits, damages, losses and expenses in any manner resulting from or arising out of the activity or event covered by the permit or to accept full responsibility for safe activity or event and to defend the City, its officers, agents and employees with regard thereto.
- F. Newspaper Vending Units in Kiosks:
1. Newspapers may utilize the newspaper vending units in the kiosks.
  2. Upon the filing of an application by a newspaper with the City Manager or designee and upon payment of an annual administrative fee, payable April 1 of each year and set by City Council resolution, the City shall make available one unit in a kiosk. Each newspaper may utilize only one unit unless the number of applications does not exceed the available kiosk units.
  3. If the number of applications exceeds the available kiosk units, the City will handle the applications on a lottery basis, to be conducted by the City Manager or designee prior to April 1 of each year. After completion of the lottery, if needed, the City Manager or designee shall provide written notice of the lottery results to the requesting newspapers. The selected newspapers shall pay the annual administrative fee to the City Manager or designee.
  4. The newspaper which pays the administrative fee and is assigned a space may not affix a logo or sign to its assigned unit.
  5. Nothing in this subsection shall be construed to limit or interfere with alternative methods of distribution available to newspapers throughout the city, as permitted by federal law.
- G. Placement of Noncommercial and Commercial Objects and Structures.
1. No person shall place any free-standing noncommercial object or structure in City Plaza without authorization issued by the City Manager or designee.
  2. To obtain authorization, the person shall inform the City Manager or designee of the proposed duration of the placement, the proposed location of the object or structure, and the physical dimensions of the object or structure.
  3. Upon receipt of such information, the City Manager or designee shall promptly authorize the display in Zone 2 only for a maximum of thirty (30) days in any one-year period, unless the City Manager or designee finds that said object or structure will impede the flow of pedestrian traffic at the proposed location. If the City Manager or designee finds that said object or structure will impede the flow of pedestrian traffic at the proposed location, then the City Manager or designee shall deny the authorization in writing.
  4. Any party aggrieved by the City Manager's or designee's decision to grant or deny such authorization may appeal the determination to the City Council if, within five (5) working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's or designee's decision. The City Council's decision is the final decision.
  5. No person shall place any free-standing commercial object or structure in City Plaza.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 9, entitled "City Use Permits," is hereby amended by deleting Section 9 in its entirety, by substituting the following new section in its place, renumbering it Section 8, and by entitling new Section 8 as "Uses of City Plaza":

- A. Mobile Vendors: The requirements for mobile vendors in City Plaza are identical to those for mobile vendors as provided in Title 10, Chapter 3, Section 5 of the Code.
- B. Ambulatory Vendors:
1. Application for Permit
    - a. Filing Application.
      - (1) An application for an ambulatory vendor permit shall be filed with the City Manager or designee by any person or group of persons desiring to use the public right of way as provided in this Chapter. If the applicant is not a natural person, the applicant shall identify a natural person who has authority to act for the applicant with regard to the ambulatory vending operation.
      - (2) All applications must be received at least five (5) working days before the proposed start of operations.
      - (3) Applications shall be made on forms prepared by the City Manager or designee.
    - b. Application Form  
The application form shall contain the following information:
      - (1) Name, address, and telephone number of the applicant.
      - (2) An acknowledgment to be signed by a natural person that he or she has the authority to act on behalf of the ambulatory vending operation.
      - (3) List of past permits issued.
      - (4) Product to be sold.
      - (5) Hours of operation.
      - (6) Months of operation.
      - (6) An agreement in which the applicant shall agree to:  
pay on behalf of the City all sums which the City shall be obligated to pay by reason of any liability imposed upon the city for damages of any kind resulting from use of public property and the public right of way, whether sustained by any person or person, caused by accident or otherwise and shall defend at its own expense and on behalf of the City any claim against the City arising out of the use of public property and the public right of way.
      - (7) Acknowledgment that the applicant has contacted the Johnson County Health Department and has reviewed health code requirements.
      - (8) Fee.
      - (9) Insurance is required in a reasonable amount necessary to minimize risk of harm to persons or property based on the nature and size of the event, as determined by the City's Risk Manager. The insurance requirement may be waived if applicant demonstrates inability to obtain insurance or to pay the cost of insurance.
      - (10) Any other information that the City Manager or designee finds necessary.
  2. Issuance or Denial of Permit  
Standards. The City Manager or designee shall grant or deny the application for the ambulatory vendor permit within a reasonable time, which shall be mailed by ordinary mail or personally delivered to the applicant and stating the reasons therefore no later than sixty (60) working days of the application being filed. The length of time which is reasonable shall be determined by the type of use requested, the information supplied, the time the application is filed, and the extent of advance preparation and planning demonstrated and reasonably required. The City Manager or designee shall issue an ambulatory vendor permit if the following conditions have been or will be met.
    - a. The application is received at least five (5) working days before the proposed start of operations.
    - b. The applicant will operate without the use of a mobile vending cart and with a minimum of equipment.
    - c. The applicant's proposed mode of operation will not impede the free flow of pedestrian traffic along the city plaza right of way, nor shall it interfere with such pedestrian movement into or out of retail establishments fronting on the plaza.
    - d. The applicant will conduct the vending completely within the boundaries of city plaza.
    - e. The applicant has obtained all necessary permits required by the county department of health.
    - f. All applicable fees have been paid in full.
    - g. The application is fully completed and executed.

- h. The indemnification agreement has been signed.
- i. A certificate of insurance showing compliance with this section has been provided.
- j. The application contains no material falsehood or misrepresentation.
- k. The applicant is legally competent to contract and to sue and be sued.
- l. The applicant has not damaged City property, and if the applicant has, the damage has been paid in full, and has paid all other outstanding and unpaid debts to the City.
- m. The applicant has complied with applicable laws concerning the sale or offering for sale of any goods or services.
- p. Such other information that the City Manager or designee finds necessary for the enforcement of this Chapter.

Contents and Conditions of Permit. The permit shall contain the following information:

- a. Name, telephone number, and address of permittee.
- b. Time, date and place of the permitted activity.
- c. Such other information that the City Manager or designee finds necessary for the enforcement of this ordinance.

### 3. Appeals

Any party aggrieved by the City Manager's or designee's decision to issue or deny a permit under this Chapter may appeal the determination to the City Council if, within ten (10) working days after the decision, the party files a written notice of appeal with the City Clerk. In such event, a hearing shall be held by the City Council no later than at its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with Chapter 21 of the Iowa Code.

Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's or designee's decision. The City Council's decision is the final decision.

4. The sale, transfer, or assignment of an ambulatory vendor permit for city plaza is expressly prohibited

### 5. Revocation of Permit.

The City Manager or designee, or City Council if issued following an appeal, is authorized to revoke an ambulatory vendor permit issued under this Chapter whenever:

- a. The permit has failed to comply with any provisions of this Chapter
- b. The permitted activity creates an obstruction to pedestrian use of the City Plaza or a nuisance or violates of any statute, law, rule or regulation involving the permitted event
- c. It is necessary to protect health or safety as determined by the Police Chief or designee or Fire Chief or designee
- d. The permittee has misstated any material fact in the application
- e. There is a substantial and material variance between the information in the application and the actual facts or those facts which appear reasonably to have occurred
- f. The permittee is operating in violation of the terms and conditions of the permit or
- g. The permittee's insurance has been cancelled.

A permittee may appeal the revocation in the same manner as appealing the issuance or denial of a permit.

6. Fees. Fees for ambulatory vendor permits shall be set by resolution of the City Council.

C. Permanent And Temporary Structures: The City Manager or designee, upon approval of city council, may enter into an agreement for the sale or lease of public right of way in the city plaza for the construction of an addition to an existing store front or for the temporary or seasonal use of zone 1 by the owner or operator of abutting property. Said lease or sale shall only be entered into after careful consideration and assurance that the following conditions have been or will be met:

#### 1. Building Design:

- a. Additions to buildings shall be harmonious in scale and design with permanent neighboring structures and with the City Plaza.
- b. Materials shall be suitable for the style and design of buildings in which they are used.
- c. Materials which are architecturally harmonious shall be used for all building walls and other exterior building components wholly or partly visible from public ways.
- d. Selection of materials shall be guided by the following:
  - (1) Harmony with adjoining buildings.
  - (2) Relationship to the brick and wood theme of City Plaza.

- (3) Materials shall be of durable quality.
  - e. Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationship to one another.
  - f. Colors shall be selected for their harmony and/or ability to complement the color scheme of the City Plaza.
  - g. Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from public view with materials harmonious with the building or shall be located so as not to be visible from any public ways.
  - h. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.
2. Signs:
    - a. All signs shall be part of the architectural concept. Size, color, lettering, location and arrangement shall be harmonious with the building design and shall be compatible with signs on adjoining buildings.
    - b. Materials used in signs shall have good architectural character and be harmonious with building design and the materials used in the City Plaza.
    - c. Every sign shall express, in scale and in proportion, an appropriate visual relationship to buildings and surroundings.
    - d. Colors shall be used harmoniously and with restraint. Excessive brightness and brilliant colors shall be avoided. Lighting shall be harmonious with the design. If external spot lighting is used, it shall be arranged so that the light source is shielded from view.
  3. Additional Criteria:
    - a. The Design Review Committee may, from time to time, formulate additional design criteria for the review of proposed construction pursuant to this Chapter. Such criteria shall become effective when adopted by the City Council by resolution.
    - b. No building permit for the construction of any temporary structure or any building extension to be constructed pursuant to this Chapter shall be issued until plans for said construction have been reviewed by the Design Review Committee and approved by the City Council. The Design Review Committee shall, within thirty (30) calendar days of receipt of said plans, review the plans and advise approval, approval with conditions or disapproval in a written report forwarded to the City Council and the applicant. City Council approval of the plans shall require a majority of votes cast at any meeting at which a quorum is present.
  4. Illumination: Nighttime interior illumination of all building fronts and basement extensions, display window extensions and basement stairwells is required during hours of operation.
  5. Construction Costs: All costs of construction are to be paid by the permittee, including costs of damage or repair to the City Plaza caused by the construction.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 10, entitled "Permit Application Procedures," is hereby amended by deleting Section 10 in its entirety and substituting in its place the following new Section 10 entitled "Penalties":

Any violation of this Chapter shall be considered a simple misdemeanor or municipal infraction as provided for in Title 1, Chapter 4 of this Code.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," is hereby amended by adding a new Section 9, entitled "Administrative Rules" as follows:

The City Manager is authorized to establish administrative rules not inconsistent with any ordinance to carry out the provisions of this Chapter. A copy of said rules shall be on file with the City Clerk.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 11, entitled "Fees," is hereby amended by deleting Section 11 in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 5, entitled "City Plaza," Section 12, entitled "Termination and Revocation of Permits and Leases," is hereby amended by deleting Section 12 in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 1, entitled "Definitions," is hereby amended by adding the following new definitions:

APPLICANT: A person who applies for permit as authorized in this chapter.

PERSON: Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or



private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.

**PARK FACILITY:** A baseball field, softball field, soccer field, tennis court, secured shelter, or unsecured shelter in a park or Riverside Festival Stage.

**PUBLIC ASSEMBLY** Any meeting, demonstration, picket line, rally or gathering of more than twenty-five (25) persons for a common purpose as a result of prior planning that interferes with the normal flow or regulation of pedestrian or vehicular traffic on the public right of way or in a park or occupies any area in the public right of way or in a park.

**PUBLIC RIGHT OF WAY:** The area on or below a public roadway, highway, street, bicycle lane, alley, and public sidewalk which is designed for vehicular, bicycle or pedestrian travel and dedicated to public use.

**SPONSORING AGENCY:** Any organization or group, regardless of whether it is legally constituted, and including but not limited to corporations and partnerships, on whose behalf a natural person individual makes application for a park permit.

**TRAIL:** A way or place, the use of which is controlled by the City as owner of the real property, used for persons walking, jogging, skateboarding, in line skating, or bicycling or motorized devices designed for and used by persons with disabilities.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 1, entitled "Definitions," is hereby amended by deleting the definitions of "parade" and "park, public park" and substituting the following new definitions:

**PARADE:** A march or procession of more than twenty-five (25) persons, vehicles or other forms of transportation, such as bicycles, or any combination thereof, in or upon the public right of way or in a park that necessitates or results in the exclusion, in whole or in part, of use of the public right of way, including a park by others. Funeral processions shall not be deemed to be included in this definition and shall not be considered a parade.

**PARK, PUBLIC PARK:** Any park or playground owned or controlled by the City, including streets, trails, and roadways therein.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 1, entitled "Definitions," is hereby amended by deleting the definition of "public entertainment" in its entirety.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 2, entitled "Prohibited Actions in Parks and Playgrounds," is hereby amended by deleting Section 2 in its entirety and substituting in its place the following:

In any park no person shall:

A. Damage To Property, Animals, Trees And Plant Materials:

1. Pick or destroy any plant materials or walk or run upon any flower beds.
2. Break or tear any limbs or branches from any tree.
3. Throw objects or missiles at any animal or bird or molest any animal or bird in any way.
4. Tear down, mutilate, destroy or carry away any sign constructed under the authority of the City Council or the Parks and Recreation Department.
5. Tear down, mutilate, destroy or burn any building, shelter equipment, picnic table, grill, or any personal property owned by the City

B. Motor Vehicles And Traffic:

1. Park any vehicle in any area where parking is prohibited by posted signs.
2. Drive any vehicle within any park, except upon the designated streets, driveways and parking areas of such parks, except motorized devices designed for and used by persons with disabilities.
3. Drive any vehicle within any park at a speed in excess of fifteen (15) miles per hour, unless otherwise posted.
4. Drive any vehicle in the wrong direction upon any one-way street within a park.

C. Weapons: Carry firearms or weapons into any park.

D. Animals:

1. Bring, cause or permit any pet to enter into any park unless such animal is on a leash or confined either a vehicle or in a cage, kennel, crate, or carrier.
2. Ride any horse in any park except upon streets and trails, and then only if the horse-rider provides for the immediate disposal of solid waste material excreted by any animal.
3. This provision shall not apply to an animal trained to assist persons with disabilities or to a person issued a permit as authorized in section 8-4-12.

- E. Fires: Build or aid and abet the building of any fire in any park, except in stoves or fireplaces designated for such purposes.
- F. Alcoholic Beverages. Possess or consume any beer or alcoholic beverages in any park.
- G. Practice Golf: Practice golf in any park.
- H. Unauthorized Use Of Buildings: Occupy any shelter or building or recreation area which has been reserved by others through the provisions of this Chapter or install any unauthorized reserved sign in any shelter, building or recreation area.
- I. Hours:
  - 1. Except as provided for specified parks herein, occupy any park, whether on foot or in a vehicle, or permit any vehicle to remain parked in any park between the hours of ten thirty o'clock (10:30) P.M. and six o'clock (6:00) A.M. unless granted special authorization by the City.
  - 2. From April 15 to October 31, the hours shall be from eleven o'clock (11:00) P.M. to six o'clock (6:00) A.M. in City Park and Mercer Park.
  - 3. Occupy, whether on foot or in a vehicle, or permit any vehicle to remain parked from dusk to dawn at the following parks: Waterworks Prairie Park, Peninsula Park, Hickory Hill Park, and Ryerson's Woods Park. Dusk means thirty (30) minutes after the time designated each calendar day as "sunset" and dawn means thirty (30) minutes before the time designated each calendar day as "sunrise" by the United States Naval Observatory for Iowa City, Johnson County, Iowa. Said designations can be accessed via the internet at <<http://aa.usno.navy.mil>>.
- J. Bicycles And Nonmotorized Vehicles:
  - 1. No person shall travel upon or operate a bicycle or nonmotorized vehicle within Chauncey Swan Park
  - 2. Persons may travel upon or operate bicycles and nonmotorized vehicles in all other City parks except where posted as prohibited, and only to the extent the nonmotorized vehicles are used in a safe manner so as not to injure persons or property.
  - 3. This provision shall not apply to a person with disabilities using a nonmotorized device designed for a person with disabilities.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 3, entitled "Traffic and Parking Regulations," is hereby amended by deleting Section 3 in its entirety and substituting in its place the following:

- A. Duties Of Director: The Director is hereby authorized and directed to: 1) designate streets and drives for use within the parks; 2) designate parking areas for the parks; and 3) prohibit, regulate or limit stopping, standing or parking of vehicles on the streets, driveways and parking areas in the parks at all times or during specified hours. The Director shall also cause signs to be posted designating streets, drives and parking areas or prohibiting, regulating or limiting stopping, standing or parking in the parks.
- B. Vehicle Owner Prima Facie Responsible for Violations: If any vehicle is found stopped, standing or parked in any manner violative of the provisions of this Chapter and the identity of the operator cannot be determined, there is a rebuttable presumption that the owner is responsible for such violation.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 4, entitled "Facility Permit," is hereby amended by deleting Section 4 in its entirety and substituting in its place the following:

- A. Permit Required: It shall be unlawful for any person or group of persons to use any park or the facilities of any park without complying with the requirements of Title 10 Chapter 1 including first having obtained a parade/public assembly permit if applicable.
- B. Secured Shelter: No person or sponsoring agency shall use a secured shelter without obtaining the authorization of the Director or designee.
- C. Park Facility: Any person or sponsoring agency may reserve a park facility by completing a filing an application with the Director on a form prepared by the Director.

Title 10, entitled "Use of Public Ways and Property," Chapter 9, entitled "Parks and Recreation Regulations," Section 5, entitled "Fees for Use of City Park and Recreation Areas and Facilities," Subsection B is hereby amended by deleting Subsection B in its entirety and substituting in its place the following:

- B. Reduction or Waiver of Fees: Notwithstanding the above, the Director is authorized to reduce or waive fees for use of park facilities or equipment for affiliate groups or organizations providing

public recreational opportunities and which are under the sponsorship or co-sponsorship of the Parks and Recreation Department.

Title 10, entitled "Use of Public Ways and Property," is hereby amended by adding a new Chapter 11, entitled "Farmers Market," as follows:

10-11-1: DEFINITIONS: As used in this Chapter, the following definitions shall apply:

DIRECTOR: The Director of City Parks and Recreation Department.

FARMERS MARKET: An open-air market sponsored by the City in the Chauncey Swan parking ramp that is intended to provide an opportunity for individuals to sell permitted items that are grown or produced by them, which conform to all applicable city, county, and state health and safety provisions, including state department of agriculture regulations.

FARMERS MARKET VENDOR: Person who is authorized under this chapter to occupy a stall and to sell items in the Farmers Market.

PERSON: A natural person.

SEASON VENDOR: A Farmers Market Vendor who is authorized by the City to occupy a stall for the entire season.

STALL: A space designated by the Director in the Farmers Market that a Farmers Market Vendor is authorized to occupy in order to sell items consistent with the provisions of this chapter.

#### 10-11-2: REGISTRATION

- A. Authorization Required. No person shall sell or offer for sale any item at the Farmers Market without authorization from the Director or designee.
- B. Obtaining Authorization. In order to receive authorization, a person shall register with the Director at least one (1) day in advance of the market date on a form prepared by the Director.
- C. Registration Form. The registration form shall contain the following information:
  1. Name, address, and telephone number of the Farmers Market Vendor.
  2. Agreement to indemnify the City.

#### 10-11-3: STANDARDS FOR GRANTING OR DENYING AUTHORIZATION

The Director or designee shall examine the registration form and shall grant authorization if the following conditions are met:

- A. All applicable fees have been paid.
- B. A stall is available.
- C. The person has not had his or her Farmers Market authorization revoked in the last year.
- D. If there are not sufficient stalls for all persons who apply for a stall, a Season Vendor from the previous calendar year shall have priority over a person who was not a Season Vendor from the previous calendar year.

#### 10-11-4: APPEALS

- A. Any party aggrieved by the decision of the Director to grant or deny authorization under this Section may appeal within ten (10) calendar days of the date of the decision by filing a written notice of appeal with the City Manager.
- B. The hearing shall be before the City Manager, who may reverse, affirm or modify, in any regard, the determination of the Director based upon the standards enumerated herein. The City Manager's decision is the final decision of the City.

#### 10-11-5: REVOCATION OF AUTHORIZATION

- A. Authorization may be revoked by the Director if:
  1. The Farmers Market Vendor has misstated in any way material facts on the registration form
  2. There is a material variance between the information on the registration form and the facts reasonably ascertained by the Director,
  3. When, by reason of disaster, public calamity, riot or other emergency, as determined by the Director, City Manager, Fire Chief, or Chief of Police, that the safety of the public requires such revocation.
  4. The Farmers Market Vendor is operating in violation of the terms and conditions of the authorization.
- B. A person may appeal a revocation of authorization in the same manner as appealing the denial of authorization as provided in this chapter.

#### 10-11-5: ADMINISTRATIVE RULES

The Director is authorized to establish administrative rules. A copy of said rules shall be on file with the City Clerk.

#### 10-11-6: FEES

Fees for authorization of a Farmers Market Vendor shall be established by resolution of the City Council.

10-11-7: PENALTIES

Any violation of this Chapter shall be considered a simple misdemeanor or municipal infraction as provided for in Title 1, Chapter 4 of this Code.

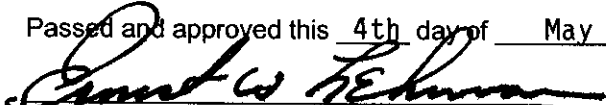
SECTION II. REPEALER. All ordinances and parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION III. PENALTIES FOR VIOLATION. The violation of any provision of this ordinance is a municipal infraction or a simple misdemeanor.

SECTION IV. SEVERABILITY. If any section, provision or part of the Ordinance shall be adjudged to be 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.

SECTION IV. EFFECTIVE DATE. This Ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed and approved this 4th day of May, 2004.

  
MAYOR

ATTEST: Marian K. Kari  
CITY CLERK

Approved by

 4-5-04  
City Attorney's Office

It was moved by Champion and seconded by Bailey that the Ordinance as read be adopted, and upon roll call there were:

AYES: NAYS: ABSENT:

<u>X</u>	<u>      </u>	<u>      </u>	Bailey
<u>X</u>	<u>      </u>	<u>      </u>	Champion
<u>X</u>	<u>      </u>	<u>      </u>	Elliott
<u>X</u>	<u>      </u>	<u>      </u>	Lehman
<u>X</u>	<u>      </u>	<u>      </u>	O'Donnell
<u>X</u>	<u>      </u>	<u>      </u>	Vanderhoef
<u>      </u>	<u>      </u>	<u>  X  </u>	Wilburn

First Consideration 4/6/04

Vote for passage: AYES: Champion, Elliott, Lehman, O'Donnell, Vanderhoef, Wilburn, Bailey. NAYS: None. ABSENT: None.

Second Consideration 4/20/04

Vote for passage: AYES: Bailey, Champion, Elliott, Lehman, O'Donnell, Vanderhoef, Wilburn. NAYS: None. ABSENT: None.

Date published 5/12/04