

**CODE OF ORDINANCES**  
**OF THE**  
**CITY OF**  
**WINTHROP, IOWA**

**Prepared By: Local Government Professional Services, Inc.**  
**DBA Iowa Codification**  
**P. O. Box 244**  
**114 E 5<sup>th</sup> Street**  
**Storm Lake, Iowa 50588**  
**(641) 355-4072**  
**[www.sc-ic.com](http://www.sc-ic.com)**



**CODE OF ORDINANCES  
CITY OF WINTHROP, IOWA**

**TABLE OF CONTENTS**

**GENERAL CODE PROVISIONS**

**CHAPTER 1 - CODE OF ORDINANCES..... 1**

**CHAPTER 2 - CHARTER..... 9**

**CHAPTER 3 - MUNICIPAL INFRACTIONS ..... 11**

**CHAPTER 5 - OPERATING PROCEDURES ..... 21**

**CHAPTER 6 - CITY ELECTIONS ..... 29**

**CHAPTER 7 - FISCAL MANAGEMENT ..... 35**

**CHAPTER 8 - INDUSTRIAL PROPERTY TAX EXEMPTIONS..... 45**

**ADMINISTRATION, BOARDS, AND COMMISSIONS**

**CHAPTER 15 - MAYOR..... 71**

**CHAPTER 16 - MAYOR PRO TEM..... 73**

**CHAPTER 17 - CITY COUNCIL..... 75**

**CHAPTER 18 - CITY CLERK ..... 83**

**CHAPTER 19 - CITY TREASURER..... 87**

**CHAPTER 20 - CITY ATTORNEY ..... 89**

**CHAPTER 21 - LIBRARY BOARD OF TRUSTEES..... 91**

**CHAPTER 22 - POOL BOARD ..... 95**

# TABLE OF CONTENTS

## POLICE, FIRE, AND EMERGENCIES

CHAPTER 30 - CONTRACT LAW ENFORCEMENT.....	145
CHAPTER 35 - FIRE DEPARTMENT .....	147

## PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	185
CHAPTER 41 - PUBLIC HEALTH AND SAFETY .....	189
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY .....	195
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	225
CHAPTER 46 - MINORS.....	227
CHAPTER 47 - PARK REGULATIONS.....	229

## NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	237
CHAPTER 51 - JUNK AND JUNK VEHICLES .....	241
CHAPTER 52 - MOWING OF PROPERTIES .....	243
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL .....	265
CHAPTER 56 - DANGEROUS AND VICIOUS ANIMALS .....	271

## TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE .....	285
CHAPTER 61 - TRAFFIC CONTROL DEVICES.....	289
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	291
CHAPTER 63 - SPEED REGULATIONS .....	293
CHAPTER 64 - TURNING REGULATIONS .....	295
CHAPTER 65 - STOP OR YIELD REQUIRED.....	297
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS .....	309
CHAPTER 67 - PEDESTRIANS .....	311

# TABLE OF CONTENTS

## **TRAFFIC AND VEHICLES (continued)**

CHAPTER 68 - ONE-WAY TRAFFIC .....	313
CHAPTER 69 - PARKING REGULATIONS .....	315
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES.....	325
CHAPTER 75 - ALL-TERRAIN VEHICLES AND SNOWMOBILES.....	331
CHAPTER 76 - BICYCLE REGULATIONS.....	335
CHAPTER 80 - ABANDONED VEHICLES .....	345
CHAPTER 81 - RAILROAD REGULATIONS .....	349

## **WATER**

CHAPTER 90 - WATER SERVICE SYSTEM .....	361
CHAPTER 91 - WATER METERS.....	365
CHAPTER 92 - WATER RATES .....	371

## **SANITARY SEWER**

CHAPTER 95 - SANITARY SEWER SYSTEM.....	381
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	385
CHAPTER 97 - USE OF PUBLIC SEWERS.....	389
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS .....	393
CHAPTER 99 - SEWER SERVICE CHARGES.....	395

## **GARBAGE AND SOLID WASTE**

CHAPTER 105 - SOLID WASTE CONTROL.....	415
CHAPTER 106 - COLLECTION OF SOLID WASTE .....	421

# TABLE OF CONTENTS

## FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE .....	445
CHAPTER 111 - ELECTRIC FRANCHISE .....	451
CHAPTER 112 - TELEPHONE FRANCHISE .....	457
CHAPTER 113 - CABLE TELEVISION FRANCHISE .....	463

## REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS .....	475
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	479
CHAPTER 122 - PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.....	483
CHAPTER 123 - HOUSE MOVERS.....	487

## STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE.....	495
CHAPTER 136 - SIDEWALK REGULATIONS.....	499
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....	505
CHAPTER 138 - STREET GRADES.....	507
CHAPTER 139 - NAMING OF STREETS.....	509
CHAPTER 140 - PUBLIC RIGHTS-OF-WAY.....	511

## BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS.....	531
CHAPTER 146 - MANUFACTURED HOMES, MOBILE HOMES, AND MOBILE HOME PARKS.....	535
CHAPTER 147 - WELL PROTECTION.....	545
CHAPTER 150 - BUILDING NUMBERING.....	553
CHAPTER 151 - TREES.....	555
CHAPTER 155 - RESTRICTED RESIDENCE DISTRICT.....	565
CHAPTER 156 - ANHYDROUS AMMONIA STORAGE.....	575

# TABLE OF CONTENTS

## ZONING AND SUBDIVISION

CHAPTER 160 - SUBDIVISION REGULATIONS.....	601
--	-----

## INDEX

### APPENDIX:

USE AND MAINTENANCE OF THE CODE OF ORDINANCES.....	1
--	---

### SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE.....	7
DANGEROUS BUILDINGS - NOTICE OF HEARING.....	8
DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....	9

NOTICE TO ABATE NUISANCE .....	10
--------------------------------	----

NOTICE OF REQUIRED SEWER CONNECTION.....	11
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION.....	12
RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION .....	13

APPLICATION FOR A BUILDING/LAND USE PERMIT .....	15
BUILDING/LAND USE PERMIT .....	16

APPLICATION FOR CERTIFICATE OF OCCUPANCY .....	17
CERTIFICATE OF OCCUPANCY .....	18

PROCEDURAL GUIDELINES FOR SUBDIVISION PLATTING.....	19
PRELIMINARY PLAT CHECKLIST FOR SUBDIVISIONS .....	22
FINAL PLAT CHECKLIST FOR SUBDIVISIONS.....	23

# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title	1.08 Amendments
1.02 Definitions	1.09 Catchlines and Notes
1.03 City Powers	1.10 Altering Code
1.04 Indemnity	1.11 Severability
1.05 Personal Injuries	1.12 Warrants
1.06 Rules of Construction	1.13 General Standards for Action
1.07 Extension of Authority	1.14 Standard Penalty

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

**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 Winthrop, Iowa.
3. “Clerk” means the city clerk of Winthrop, 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 Winthrop, Iowa.
6. “Council” means the city council of Winthrop, Iowa.
7. “County” means Buchanan 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 Winthrop, 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 to 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 any injury to or death of any person or persons whomsoever, and any 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 that 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 this 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 this 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 this Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code of Ordinances in any manner that will cause the law of the City to be misrepresented.

**1.11 SEVERABILITY.** If any section, provision, or part of this Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of this 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.** The doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by this Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with the fine set forth in the *Code of Iowa* Section 903.1(1a) and (3).

[The next page is 9]

## CHAPTER 2

# CHARTER

2.01 Title	2.04 Number and Term of Council
2.02 Form of Government	2.05 Term of Mayor
2.03 Powers and Duties of City Officers	2.06 Copies on File

**2.01 TITLE.** This chapter may be cited as the charter of the City of Winthrop, 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 two 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[3])*

o o o o o o o o o o

## 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 Alternative 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.<sup>†</sup>

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

**3.02 ENVIRONMENTAL VIOLATION.** A municipal infraction that 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 – not to exceed \$750.00
  - B. Each repeat offense – not to exceed \$1,000.00

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.

---

<sup>†</sup> **EDITOR'S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14.

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 24 hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight 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[9])*

**3.06 ALTERNATIVE 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[12])*



[The next page is 21]

## CHAPTER 5

# OPERATING PROCEDURES

5.01 Oaths  
5.02 Bonds  
5.03 Powers and Duties  
5.04 Books and Records  
5.05 Transfer to Successor  
5.06 Meetings

5.07 Conflict of Interest  
5.08 Resignations  
5.09 Removal of Appointed Officers and Employees  
5.10 Vacancies  
5.11 Gifts

**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 such officer is certified as elected but not later than noon of the first day that 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 Winthrop 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[1a] and [3])*

**5.03 POWERS AND DUTIES.** 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 that 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 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 \$6,000.00 in a fiscal year.

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

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[3k])*

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[3l])*

**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 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 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 in accordance with Section 372.13[2] of the *Code of Iowa*.

**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)*

[The next page is 29]

## 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 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])*

[The next page is 35]

## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

7.05 Operating Budget Preparation  
7.06 Budget Amendments  
7.07 Accounting  
7.08 Financial Reports

**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)*

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

**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.

*(545 IAC 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.

*(545 IAC 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.

*(545 IAC 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, 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 net position calculated in accordance with generally accepted accounting principles, after adding back the net pension and other postemployment benefits, liabilities, and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:

- A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and
- B. The amount necessary to make all required transfers to restricted accounts for the succeeding three months.

*(545 IAC 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 each year at such time as directed by the Council.

4. Annual Statement.

*(Code of Iowa, Sec. 24.2A[2])*

- A. On or before March 15 of each year, the City shall file, with the Department of Management, a report containing all necessary information for

the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 20, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-9) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices and copies of the statements mailed under this section.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice.

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

6. Notice of Hearing. Following, and not until the requirements, of Subsection 4 of this section, are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 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])*

8. 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 submitted at the final hearing, unless an additional tax levy is approved at a City election. 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])*

*(Section 7.05 – Ord. 213 – Oct. 23 Supp.)*

**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.

*(545 IAC 2.2)*

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.

*(545 IAC 2.3)*

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

*(545 IAC 2.4)*

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.

*(545 IAC 2.4)*

**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. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Mayor, Mayor Pro Tem, or City Clerk, following Council approval, except as provided by Subsection 5 hereof.

4. 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.

5. 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.

6. 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. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

*(Code of Iowa, Sec. 384.22)*

*(Section 7.08 – Ord. 213 – Oct. 23 Supp.)*

[The next page is 45]

## 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 that 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 that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that 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.
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 that 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 years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

*(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, 75 percent.
2. For the second year, 60 percent.
3. For the third year, 45 percent.
4. For the fourth year, 30 percent.
5. For the fifth year, 15 percent.

**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 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)*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein, have been adopted granting prior approval for eligibility for a tax exemption and have been specifically saved from repeal and are in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
60	January 7, 1991		



[The next page is 71]

## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

**15.01 TERM OF OFFICE.** The Mayor is elected for a term of two years.  
*(Code of Iowa, Sec. 376.2)*

**15.02 POWERS AND DUTIES.** The powers and duties of the Mayor are as follows:

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

*(Code of Iowa, Sec. 372.14[1])*

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.

*(Code of Iowa, Sec. 372.14[2])*

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.

*(Code of Iowa, Sec. 372.14[1])*

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

*(Code of Iowa, Sec. 380.5 and 380.6[2])*

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for Council action.

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.

7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.

8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with this Code of Ordinances and the laws of the State.

9. Licenses and Permits. Sign all licenses and permits that have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.

10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.

11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

**15.03 APPOINTMENTS.** The Mayor shall appoint the following officials:

*(Code of Iowa, Sec. 372.4)*

1. Mayor Pro Tem
2. Library Board of Trustees
3. Pool Board

**15.04 COMPENSATION.** The salary of the Mayor is \$1,500.00 per year, to be paid in equal quarterly installments, plus \$40.00 per meeting attended on behalf of the City.†

*(Code of Iowa, Sec. 372.13[8])*

*(Ord. 208 – Oct. 23 Supp.)*

**15.05 VOTING.** The Mayor is not a member of the Council and shall not vote as a member of the Council.

*(Code of Iowa, Sec. 372.4)*

---

† **EDITOR'S NOTE:** Change in Mayor compensation was approved by Ordinance No. 208 on April 5, 2023, and takes effect on January 1, 2024, per the *Code of Iowa*. Previous compensation was \$1,000.00 annually plus \$40.00 per meeting attended on behalf of the City.

## CHAPTER 16

### MAYOR PRO TEM

16.01 Vice President of Council  
16.02 Powers and Duties

16.03 Voting Rights  
16.04 Compensation

**16.01 VICE PRESIDENT OF COUNCIL.** The Mayor shall appoint a member of the Council as Mayor Pro Tem, who shall serve as vice president of the Council.

*(Code of Iowa, Sec. 372.14[3])*

**16.02 POWERS AND DUTIES.** Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office the Mayor Pro Tem shall not have power to appoint, employ, or discharge from employment officers or employees that the Mayor has the power to appoint, employ, or discharge without the approval of the Council.

*(Code of Iowa, Sec. 372.14[3])*

**16.03 VOTING RIGHTS.** The Mayor Pro Tem shall have the right to vote as a member of the Council.

*(Code of Iowa, Sec. 372.14[3])*

**16.04 COMPENSATION.** If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of 15 days or more, the Mayor Pro Tem may be paid for that period the compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.

*(Code of Iowa, Sec. 372.13[8])*

o o o o o o o o o o

## CHAPTER 17

# CITY COUNCIL

17.01 Number and Term of Council  
17.02 Powers and Duties  
17.03 Exercise of Power

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 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. 372.4 & 376.2)*

**17.02 POWERS AND DUTIES.** The powers and duties of the Council include, but are not limited to the following:

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

*(Code of Iowa, Sec. 364.2[1])*

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

*(Code of Iowa, Sec. 372.13[7])*

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

*(Code of Iowa, Sec. 364.2[1], 384.16 and 384.38[1])*

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

*(Code of Iowa, Sec. 364.2[1])*

5. Contracts. The Council shall make or authorize the making of all contracts. No contract shall bind or be obligatory upon the City unless approved by the Council.

*(Code of Iowa, Ch. 26)*

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

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

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

*(Code of Iowa, Sec. 372.13[8])*

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

*(Code of Iowa, Sec. 364.3[1])*

1. Action by Council. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of \$100,000.00 on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

2. Overriding Mayor's Veto. Within 30 days after the Mayor's veto, the Council may pass the measure again by a vote of not less than two-thirds of all of the members of the Council.

*(Code of Iowa, Sec. 380.6[2])*

3. Measures Become Effective. Measures passed by the Council become effective in one of the following ways:

A. An ordinance or amendment signed by the Mayor becomes effective when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.

*(Code of Iowa, Sec. 380.6[1a])*

B. A resolution signed by the Mayor becomes effective immediately upon signing.

*(Code of Iowa, Sec. 380.6[1b])*

C. A motion becomes effective immediately upon passage of the motion by the Council.

*(Code of Iowa, Sec. 380.6[1c])*

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

*(Code of Iowa, Sec. 380.6[2])*

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

*(Code of Iowa, Sec. 380.6[3])*

"All of the members of the Council" refers to all of the seats of the Council including a vacant seat and a seat where the member is absent, but does not include a seat where the Council member declines to vote by reason of a conflict of interest.

*(Code of Iowa, Sec. 380.1[a])*

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.  
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.  
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.  
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

**17.05 APPOINTMENTS.** The Council shall appoint the following officials and prescribe their powers, duties, compensation, and term of office:

1. City Clerk
2. City Attorney

**17.06 COMPENSATION.** The salary of each Council member is \$40.00 for each meeting of the Council attended, payable in quarterly installments.<sup>†</sup>

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

(Section 17.06 – Ord. 209 – Oct. 23 Supp.)

---

<sup>†</sup> **EDITOR'S NOTE:** Change in Council compensation was approved by Ordinance No. 209 on April 5, 2023, and takes effect on January 1, 2024, per the *Code of Iowa*. Previous compensation was \$25.00 per meeting of the Council attended.



[The next page is 83]

## CHAPTER 18

### CITY CLERK

18.01 Appointment and Compensation  
18.02 Powers and Duties: General  
18.03 Publication of Minutes  
18.04 Recording Measures  
18.05 Other Publications  
18.06 Authentication  
18.07 Certification

18.08 Records  
18.09 Attendance at Meetings  
18.10 Licenses and Permits  
18.11 Notification of Appointments  
18.12 Elections  
18.13 City Seal

**18.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Clerk to serve at the discretion of the Council. The Clerk shall receive such compensation as established by resolution of the Council.

*(Code of Iowa, Sec. 372.13[3])*

**18.02 POWERS AND DUTIES: GENERAL.** The Clerk or, in the Clerk's absence or inability to act, the Deputy Clerk has the powers and duties as provided in this chapter, this Code of Ordinances, and the law.

**18.03 PUBLICATION OF MINUTES.** Within 15 days following a regular or special meeting, the Clerk shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

*(Code of Iowa, Sec. 372.13[6])*

**18.04 RECORDING MEASURES.** The Clerk shall promptly record each measure considered by the Council and record a statement with the measure, where applicable, indicating whether the Mayor signed, vetoed, or took no action on the measure, and whether the measure was repassed after the Mayor's veto.

*(Code of Iowa, Sec. 380.7[1 & 2])*

**18.05 OTHER PUBLICATIONS.** The Clerk shall cause to be published all ordinances, enactments, proceedings, and official notices requiring publication as follows:

*(Code of Iowa, Sec. 362.3)*

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

**18.06 AUTHENTICATION.** The Clerk shall authenticate all measures except motions with the Clerk's signature, certifying the time and manner of publication when required.

*(Code of Iowa, Sec. 380.7[4])*

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

*(Code of Iowa, Sec. 380.11)*

**18.08 RECORDS.** The Clerk shall maintain the specified City records in the following manner:

1. Ordinances and Codes. Maintain copies of all effective City ordinances and codes for public use.

*(Code of Iowa, Sec. 380.7[5])*

2. Custody. Have custody and be responsible for the safekeeping of all writings or documents in which the City is a party in interest unless otherwise specifically directed by law or ordinance.

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

3. Maintenance. Maintain all City records and documents (or accurate reproductions) for at least five years except that ordinances, resolutions, Council proceedings, records, and documents (or accurate reproductions) relating to the issuance, cancellation, transfer, redemption, or replacement of public bonds or obligations shall be kept for at least 11 years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records, and documents (or accurate reproductions) relating to real property transactions shall be maintained permanently.

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper, or public document under the Clerk's control when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments that by this Code of Ordinances are required to be attested by the affixing of the seal.

*(Code of Iowa, Sec. 372.13[4 & 5] and 380.7[5])*

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

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

**18.09 ATTENDANCE AT MEETINGS.** The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

**18.10 LICENSES AND PERMITS.** The Clerk shall issue or revoke licenses and permits when authorized by this Code of Ordinances, and keep a record of licenses and permits issued which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

**18.11 NOTIFICATION OF APPOINTMENTS.** The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their positions and the time at which they shall assume the duties of their offices.

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

**18.12 ELECTIONS.** The Clerk shall perform the duties relating to elections in accordance with Chapter 376 of the *Code of Iowa*.

**18.13 CITY SEAL.** The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words “INCORPORATED APRIL 19, 1886” and around the margin of which are the words “CITY OF WINTHROP, BUCHANAN COUNTY, IOWA.”

o o o o o o o o o o

## CHAPTER 19

# CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer  
19.04 Boards and Commissions

**19.01 APPOINTMENT.** The City Clerk is the Treasurer and performs all functions required of the position of Treasurer.

**19.02 COMPENSATION.** The Clerk receives no additional compensation for performing the duties of the Treasurer.

**19.03 DUTIES OF TREASURER.** The duties of the Treasurer are as follows:  
*(Code of Iowa, Sec. 372.13[4])*

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law and Council direction.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money, or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

**19.04 BOARDS AND COMMISSIONS.** The City Treasurer shall be the Treasurer of the Library Board of Trustees, and pay out all money under control of such board on orders signed by the Chairperson and the Secretary of such board, but shall receive no additional compensation for such services.

o o o o o o o o o o

## CHAPTER 20

### CITY ATTORNEY

20.01 Appointment and Compensation  
20.02 Attorney for City  
20.03 Power of Attorney  
20.04 Ordinance Preparation

20.05 Review and Comment  
20.06 Provide Legal Opinion  
20.07 Attendance at Council Meetings  
20.08 Prepare Documents

**20.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council. The City Attorney shall receive such compensation as established by resolution of the Council.

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

**20.02 ATTORNEY FOR CITY.** The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission, or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or Council.

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

**20.03 POWER OF ATTORNEY.** The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.

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

**20.04 ORDINANCE PREPARATION.** The City Attorney shall prepare those ordinances that the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.

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

**20.05 REVIEW AND COMMENT.** The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.

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

**20.06 PROVIDE LEGAL OPINION.** The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Council.

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

**20.07 ATTENDANCE AT COUNCIL MEETINGS.** The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.

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

**20.08 PREPARE DOCUMENTS.** The City Attorney shall, upon request, formulate drafts for contracts, forms, and other writings that may be required for the use of the City.

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



o o o o o o o o o o

## CHAPTER 21

### LIBRARY BOARD OF TRUSTEES

21.01 Public Library	21.07 Nonresident Use
21.02 Library Trustees	21.08 Expenditures
21.03 Qualifications of Trustees	21.09 Annual Report
21.04 Organization of the Board	21.10 Injury to Books or Property
21.05 Powers and Duties	21.11 Theft
21.06 Contracting with Other Libraries	21.12 Notice Posted

**21.01 PUBLIC LIBRARY.** The public library for the City is known as the Winthrop Public Library. It is referred to in this chapter as the Library.

**21.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five members. Four members shall be residents of the City of Winthrop and one member shall be a nonresident member. All resident members are appointed by the Mayor, with the approval of the Council. The nonresident member shall be appointed by the Mayor, with the approval of the County Board of Supervisors. † *(Ord. 206 – Oct. 22 Supp.)*

**21.03 QUALIFICATIONS OF TRUSTEES.** All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of 18 years.

**21.04 ORGANIZATION OF THE BOARD.** The organization of the Board shall be as follows:

1. Term of Office. All appointments to the Board shall be for three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

**21.05 POWERS AND DUTIES.** The Board shall have and exercise the following powers and duties:

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

---

† **EDITOR'S NOTE:** Pursuant to an election, as required by the *Code of Iowa*, held on November 2, 2021, approval for changes to the makeup of the Library Board was approved by the voters of the City.

2. Physical Plant. To have charge, control, and supervision of the Library, its appurtenances, fixtures, and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Librarian, and authorize the Librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Librarian, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the Librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government, and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises, and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises, and bequests accepted by the City by action against the Council.
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

**21.06 CONTRACTING WITH OTHER LIBRARIES.** The Board has power to contract with other libraries in accordance with the following:

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

*(Code of Iowa, Sec. 392.5 and Ch. 28E)*

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

**21.07 NONRESIDENT USE.** The Board may authorize the use of the Library by persons not residents of the City or County in any one or more of the following ways:

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

**21.08 EXPENDITURES.** All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary.

*(Code of Iowa, Sec. 384.20 and 392.5)*

**21.09 ANNUAL REPORT.** The Board shall make a report to the Council immediately after the close of the fiscal year. This report shall contain statements as to the condition of the Library, the number of books added, the number circulated, the amount of fines collected, and the amount of money expended in the maintenance of the Library during the year, together with such further information as may be required by the Council.

**21.10 INJURY TO BOOKS OR PROPERTY.** It is unlawful for a person willfully, maliciously or wantonly to tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture, or other property belonging to the Library or reading room.

*(Code of Iowa, Sec. 716.1)*

**21.11 THEFT.** No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.

*(Code of Iowa, Sec. 714.1)*

**21.12 NOTICE POSTED.** There shall be posted in clear public view within the Library notices informing the public of the following:

1. Failure to Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

*(Code of Iowa, Sec. 714.5)*

2. Detention and Search. Persons concealing Library materials may be detained and searched pursuant to law.

*(Code of Iowa, Sec. 808.12)*

**CHAPTER 22**  
**POOL BOARD**

**22.01 Pool Board**  
**22.02 Appointment/Term**

**22.03 Duties**

**22.01 POOL BOARD.** There shall be a Pool Board consisting of three members.

**22.02 APPOINTMENT; TERM.** The members of the Board shall be appointed by the Mayor and approved by the Council. The members shall serve a three-year term. In the event any member is unable to finish a term, another member shall be appointed by the Mayor and approved by the Council.

**22.03 DUTIES.** The Board shall make all personnel decisions and daily operating decisions, including hiring and disciplining of employees, operating hours, and swim lessons. All major expenses and/or capital equipment purchases must be approved by the Council.

[The next page is 145]

## CHAPTER 30

# CONTRACT LAW ENFORCEMENT

**30.01 CONTRACT LAW ENFORCEMENT.** The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.

*(Code of Iowa, 28E.30)*



o o o o o o o o o o

## CHAPTER 35

# FIRE DEPARTMENT

35.01 Establishment and Purpose  
35.02 Organization  
35.03 Approved by Council  
35.04 Training  
35.05 Compensation  
35.06 Election of Officers  
35.07 Duties of Fire Chief

35.08 Obedience to Fire Chief  
35.09 Constitution  
35.10 Accidental Injury Insurance  
35.11 Liability Insurance  
35.12 Calls Outside City  
35.13 Mutual Aid  
35.14 Authority to Cite Violations

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

*(Code of Iowa, Sec. 364.16)*

**35.02 ORGANIZATION.** The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council.

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

**35.03 APPROVED BY COUNCIL.** No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the Council members.

**35.04 TRAINING.** All members of the department shall meet the minimum training standards established by the State Fire Marshal and attend and actively participate in regular or special training drills or programs as directed by the Fire Chief.

*(Code of Iowa, Sec. 100B.2[4])*

**35.05 COMPENSATION.** Members of the department shall be designated by rank and receive such compensation as shall be determined by resolution of the Council.

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

**35.06 ELECTION OF OFFICERS.** The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of the Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

**35.07 DUTIES OF FIRE CHIEF.** The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including (but not limited to) the following:

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin, and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.

3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

*(Code of Iowa, Sec. 102.2)*

4. Control of Scenes. Prohibit an individual, vehicle, or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel, or individual that may impede or interfere with the operation of the Fire Department.

*(Code of Iowa, Sec. 102.2)*

5. Authority to Barricade. When in charge of a fire scene, place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the firefighting efforts of the Fire Department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

*(Code of Iowa, Sec. 102.3)*

6. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the Fire Department. The members of the Fire Department shall, at all times, be subject to the direction of the Fire Chief.

7. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the Fire Department.

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

*(Code of Iowa, Sec. 100.2 & 100.3)*

9. Right of Entry. Have the right, during reasonable hours, to enter any building or premises within the Fire Chief's jurisdiction for the purpose of making such investigation or inspection that under law or ordinance may be necessary to be made and that is reasonably necessary to protect the public health, safety, and welfare.

*(Code of Iowa, Sec. 100.12)*

10. Recommendation. Make such recommendations to owners, occupants, caretakers, or managers of buildings necessary to eliminate fire hazards.

*(Code of Iowa, Sec. 100.13)*

11. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing, and reporting data pertaining to fires.

12. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of

responses to alarms, their cause, and location, and an analysis of losses by value, type, and location of buildings.

13. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council.

**35.08 OBEDIENCE TO FIRE CHIEF.** No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

**35.09 CONSTITUTION.** The department shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such constitution and bylaws before being effective, must be approved by the Council.

**35.10 ACCIDENTAL INJURY INSURANCE.** The Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer firefighters injured in the performance of their duties as firefighters whether within or outside the corporate limits of the City. All volunteer firefighters shall be covered by the contract.

*(Code of Iowa, Sec. 85.2, 85.61 and Sec. 410.18)*

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

*(Code of Iowa, Sec. 670.2 & 517A.1)*

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

*(Code of Iowa, Sec. 364.4[2 & 3])*

**35.13 MUTUAL AID.** Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

*(Code of Iowa, Sec. 364.4[2 & 3])*

**35.14 AUTHORITY TO CITE VIOLATIONS.** Fire officials acting under the authority of Chapter 100 of the *Code of Iowa* may issue citations in accordance to Chapter 805 of the *Code of Iowa*, for violations of State and/or local fire safety regulations.

*(Code of Iowa, Sec. 100.41)*

[The next page is 185]

**CHAPTER 40**  
**PUBLIC PEACE**

**40.01 Assault**  
**40.02 Harassment**

**40.03 Disorderly Conduct**  
**40.04 Failure to Disperse**

**40.01 ASSAULT.** No person shall, without justification, commit any of the following:

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that will be insulting or offensive to another, coupled with the apparent ability to execute the act.

*(Code of Iowa, Sec. 708.1[1])*

2. Threat of Pain or Injury. Any act that is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

*(Code of Iowa, Sec. 708.1[2])*

An act described in Subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace; (ii) if the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function, regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

*(Code of Iowa, Sec. 708.1)*

**40.02 HARASSMENT.** No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

A. Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

*(Code of Iowa, Sec. 708.7)*

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.

*(Code of Iowa, Sec. 708.7)*

C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

*(Code of Iowa, Sec. 708.7)*

D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.

*(Code of Iowa, Sec. 708.7)*

2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, “personal contact” means an encounter in which two or more people are in visual or physical proximity to each other. “Personal contact” does not require a physical touching or oral communication, although it may include these types of contacts.

**40.03 DISORDERLY CONDUCT.** No person shall do any of the following:

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that is reasonably related to that sport.

*(Code of Iowa, Sec. 723.4[1a])*

2. Noise. Make loud and raucous noise in the vicinity of any residence or public building which intentionally or recklessly causes unreasonable distress to the occupants thereof.

*(Code of Iowa, Sec. 723.4[1b])*

3. Abusive Language. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

*(Code of Iowa, Sec. 723.4[1c])*

4. Disrupt Lawful Assembly. Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

*(Code of Iowa, Sec. 723.4[1d])*

5. False Report of Catastrophe. By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

*(Code of Iowa, Sec. 723.4[1e])*

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

*(Code of Iowa, Sec. 723.4[1f])*

A. “Deface” means to intentionally mar the external appearance.

B. “Defile” means to intentionally make physically unclean.

C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.

D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.

- E. “Show disrespect” means to deface, defile, mutilate, or trample.
  - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
  - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
  - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

*(Code of Iowa, Sec. 723.5)*

**40.04 FAILURE TO DISPERSE.** A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. No person within hearing distance of such command shall refuse to obey.

*(Code of Iowa, Sec. 723.3)*



o o o o o o o o o o

## CHAPTER 41

# PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances	41.08 Abandoned or Unattended Refrigerators
41.02 False Reports to or Communications with Public Safety Entities	41.09 Antenna and Radio Wires
41.03 Providing False Identification Information	41.10 Barbed Wire and Electric Fences
41.04 Refusing to Assist Officer	41.11 Discharging Weapons
41.05 Harassment of Public Officers and Employees	41.12 Throwing and Shooting
41.06 Interference with Official Acts	41.13 Urinating and Defecating
41.07 Removal of an Officer's Communication or Control Device	41.14 Fireworks
	41.15 Failure to Disperse

**41.01 DISTRIBUTING DANGEROUS SUBSTANCES.** No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

*(Code of Iowa, Sec. 727.1)*

**41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES.** No person shall do any of the following:

*(Code of Iowa, Sec. 718.6)*

1. Report or cause to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

**41.03 PROVIDING FALSE IDENTIFICATION INFORMATION.** No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

*(Code of Iowa, Sec. 719.1A)*

**41.04 REFUSING TO ASSIST OFFICER.** Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.

*(Code of Iowa, Sec. 719.2)*

**41.05 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.** No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

*(Code of Iowa, Sec. 718.4)*

**41.06 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, medical examiner, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, medical examiner, or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

**41.07 REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE.** No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

*(Code of Iowa, Sec. 708.12)*

**41.08 ABANDONED OR UNATTENDED REFRIGERATORS.** No person shall abandon or otherwise leave unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, nor shall any person allow any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.

*(Code of Iowa, Sec. 727.3)*

**41.09 ANTENNA AND RADIO WIRES.** It is unlawful for a person to allow antenna wires, antenna supports, radio wires, or television wires to exist over any street, alley, highway, sidewalk, public way, public ground, or public building without written consent of the Council.

*(Code of Iowa, Sec. 364.12[2])*

**41.10 BARBED WIRE AND ELECTRIC FENCES.** It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of 10 acres or more and is used as agricultural land.

**41.11 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.
2. No person shall intentionally discharge a firearm in a reckless manner.

**41.12 THROWING AND SHOOTING.** It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB

guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

*(Code of Iowa, Sec. 364.12[2])*

**41.13 URINATING AND DEFECATING.** It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway, or window thereof, or onto any public or private land.

**41.14 FIREWORKS.** The sale, use, or exploding of fireworks with the City shall be subject to the following:

1. **Definition.** For purposes of this section, definitions are enumerate in Section 727.2 of the *Code of Iowa*, which definitions are incorporated herein by reference.

*(Code of Iowa, Sec. 727.2)*

2. **Sales – General Requirements.**

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City Clerk’s office.

- (1) **License:** Proof of valid license issued from the State Fire Marshal.

- (2) **Liability Insurance:** Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.

B. **Date of Sale:** Consumer fireworks sales shall only be conducted in accordance with dates and times designated by Section 727.2 of the *Code of Iowa*. It is be unlawful to sell consumer fireworks without meeting the requirements specified in this section, or to sell fireworks outside of the dates specified.

- (1) Approved consumer fireworks sales meeting the requirements of this section shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 2.

- (2) Approved consumer fireworks sales meeting the requirements of this section shall be allowed from an approved temporary structure between June 13 and July 8.

C. **Safety Requirements:** The following safety requirements shall be adopted for all locations where consumer fireworks are sold:

- (1) Locations shall maintain two exits for egress during an emergency. All exits shall be clearly marked with signage; except that exit signs shall be illuminated in permanent structures.

- (2) Consumer fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

- (3) Locations shall have a minimum of two 10-pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional

fire extinguisher shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.

(4) All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within eight seconds.

(5) No persons under the influence of alcohol, drugs, or narcotics shall be allowed to remain in the business where consumer fireworks are sold as a primary business.

(6) No more than one conex container or approved explosive magazine shall be located on site for short-term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices.

(7) Individual consumer fireworks devices or opened consumer fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.

(8) Consumer fireworks sales shall only be allowed in commercial areas.

(9) Any person engaged in consumer firework sales in any area other than commercial areas shall not be approved for sales within the City limits.

(10) No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.

(11) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

3. Fireworks Permit for Display.

A. Supervised public exhibitions or displays shall be conducted only in accordance with this subsection.

B. The City may, upon application in writing, grant a permit for the display of fireworks on public property by City agencies, fair associations, and organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amount:

(1) Personal Injury:	\$250,000 per person
(2) Property Damage:	\$50,000
(3) Total Exposure:	\$1,000,000

C. No person shall use, explode, discharge, possess, or display fireworks or consumer fireworks on any publicly owned property unless authorized under this section.

D. No person shall use, explode, or discharge display fireworks or consumer fireworks in the City limits without first obtaining a permit from the City as provided in this section.

4. Violations. All violations of any provisions of this Chapter are hereby simple misdemeanors. Violations of this chapter shall be reported to the State Fire Marshal.

5. Exceptions. This section does not prohibit the sale by resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theater, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

**41.15 FAILURE TO ASSIST.** A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

*(Code of Iowa, Sec. 727.12)*

o o o o o o o o o o

**CHAPTER 42**  
**PUBLIC AND PRIVATE PROPERTY**

42.01 Trespassing  
42.02 Criminal Mischief  
42.03 Defacing Proclamations or Notices  
42.04 Unauthorized Entry

42.05 Fraud  
42.06 Theft  
42.07 Other Public Property Offenses

**42.01 TRESPASSING.**

1. Prohibited. It is unlawful for a person to knowingly trespass upon the property of another.

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

*(Code of Iowa, Sec. 716.7[1])*

A. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

B. “Public utility” is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.

C. “Public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

D. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.

E. “Railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.

F. “Trespass” means one or more of the following acts:

*(Code of Iowa, Sec. 716.7[2a])*

(1) Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.

(2) Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.



(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. Specific Exceptions. "Trespass" does not mean either of the following:

*(Code of Iowa, Sec. 716.7[2b])*

A. Entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This paragraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

B. Entering upon the right-of-way of a public road or highway.

**42.02 CRIMINAL MISCHIEF.** It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter, or destroy property.

*(Code of Iowa, Sec. 716.1)*

**42.03 DEFACING PROCLAMATIONS OR NOTICES.** It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement, or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.

*(Code of Iowa, Sec. 716.1)*

**42.04 UNAUTHORIZED ENTRY.** No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said

building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

**42.05 FRAUD.** It is unlawful for any person to commit a fraudulent practice as defined in Section 714.8 of the *Code of Iowa*.

*(Code of Iowa, Sec. 714.8)*

**42.06 THEFT.** It is unlawful for any person to commit theft as defined in Section 714.1 of the *Code of Iowa*.

*(Code of Iowa, Sec. 714.1)*

**42.07 OTHER PUBLIC PROPERTY OFFENSES.** The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions that are also deemed to be public property offenses:

1. Chapter 21 – Library
  - A. Section 21.10 – Injury to Books or Property
  - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
  - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
  - A. Section 135.01 – Removal of Warning Devices
  - B. Section 135.02 – Obstructing or Defacing
  - C. Section 135.03 – Placing Debris On
  - D. Section 135.04 – Playing In
  - E. Section 135.05 – Traveling on Barricaded Street or Alley
  - F. Section 135.08 – Burning Prohibited
  - G. Section 135.13 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
  - A. Section 136.11 – Interference with Sidewalk Improvements
  - B. Section 136.15 – Fires or Fuel on Sidewalks
  - C. Section 136.16 – Defacing
  - D. Section 136.17 – Debris on Sidewalks
  - E. Section 136.18 – Merchandise Display
  - F. Section 136.19 – Sales Stands

[The next page is 225]

## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

**45.01 PERSONS UNDER LEGAL AGE.** As used in this section, “legal age” means 21 years of age or more.

1. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic beverages in their possession or control; except in the case of any alcoholic beverage given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages during the regular course of the person’s employment by a retail alcohol licensee, or wine or beer permittee under State laws.

*(Code of Iowa, Sec. 123.47[3])*

2. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage from any retail alcohol licensee.

*(Code of Iowa, Sec. 123.49[3])*

*(Section 45.01 – Ord. 207 – Oct. 22 Supp.)*

**45.02 PUBLIC CONSUMPTION OR INTOXICATION.**

1. As used in this section unless the context otherwise requires:

A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.

B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.

D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a retail alcohol license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.

*(Ord. 207 – Oct. 22 Supp.)*

3. A person shall not simulate intoxication in a public place.
4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

*(Code of Iowa, Sec. 123.46)*

**45.03 OPEN CONTAINERS IN MOTOR VEHICLES.** *[See Section 62.01(6) of this Code of Ordinances.]*

**45.04 SOCIAL HOST.** A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic beverage. The provisions of this subsection shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

*(Code of Iowa, Sec. 123.47)*

## CHAPTER 46

### MINORS

46.01 Curfew  
46.02 Minors in Taverns

46.03 Cigarettes and Tobacco  
46.04 Contributing to Delinquency

**46.01 CURFEW.** A curfew applicable to minors is established and shall be enforced as follows:

1. Definition. The term “minor” means in this section, any unemancipated person below the age of 18 years.
2. Time Limits. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City from:
  - A. 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday evenings to 6:00 a.m. of the following morning; and
  - B. 11:00 p.m. on Friday and Saturday evenings to 6:00 a.m. of the following morning.
3. Exceptions. The restriction provided by Subsection 46.01(2) shall not apply to any minor who is accompanied by a guardian, parent, or other person charged with the care and custody of such minor, or other responsible person over 18 years of age, nor shall the restriction apply to any minor who is traveling between his home or place of residence and the place where any approved place of employment, church, or municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian, or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business or amusement, or other public places within the curfew hours set by Subsection 46.01(2), except as otherwise provided in Subsection 46.01(3).

*(Code of Iowa, Sec. 613.16)*
5. Responsibility of Business Establishments. It is unlawful for any person, firm, or corporation operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by Subsection 46.01(2), except as otherwise provided in Subsection 46.01(3).
6. Enforcement Procedures. Determination of Age. Any peace officer of the City while on duty is hereby empowered to arrest a minor who violates any of the provisions of Subsections 46.01(2) and (3). Upon arrest, the minor shall be returned to the custody of the parent, guardian, or other person charged with the care and custody of the minor.

**46.02 MINORS IN TAVERNS.** It is unlawful for any person under legal age to enter, remain in or frequent a business establishment holding a retail alcohol license unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This section does not apply to holders of a Class “B” retail alcohol license or an establishment employee when employed in compliance with State law.*(Ord. 212 – Oct. 23 Supp.)*

**46.03 CIGARETTES AND TOBACCO.** It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

**46.04 CONTRIBUTING TO DELINQUENCY.** It is unlawful for any person to encourage any child under 18 years of age to commit any act of delinquency.

*(Code of Iowa, Sec. 709A.1)*

## CHAPTER 47

# PARK REGULATIONS

47.01 Purpose  
47.02 Use of Drives Required  
47.03 Fires

47.04 Littering  
47.05 Parks Closed  
47.06 Camping

**47.01 PURPOSE.** The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.

*(Code of Iowa, Sec. 364.12)*

**47.02 USE OF DRIVES REQUIRED.** No person shall drive any car, cycle, or other vehicle, or ride or lead any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

**47.03 FIRES.** No fire shall be built, except in a place designated for such purpose, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

**47.04 LITTERING.** No person shall place, deposit, or throw any waste, refuse, litter, or foreign substance in any area or receptacle except those provided for that purpose.

**47.05 PARKS CLOSED.** No person, except those camping in designated areas, shall enter or remain within any park between the hours of 10:30 p.m. and 4:00 a.m.

**47.06 CAMPING.** No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.



[The next page is 237]

## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance  
50.02 Nuisances Enumerated  
50.03 Other Conditions  
50.04 Nuisances Prohibited

50.05 Nuisance Abatement  
50.06 Abatement of Nuisance by Written Notice  
50.07 Municipal Infraction Abatement Procedure

**50.01 DEFINITION OF NUISANCE.** Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.

*(Code of Iowa, Sec. 657.1)*

**50.02 NUISANCES ENUMERATED.** The following subsections include, but do not limit, the conditions that are deemed to be nuisances in the City:

*(Code of Iowa, Sec. 657.2)*

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**

11. Airport Air Space. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

**50.03 OTHER CONDITIONS.** The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions that are deemed to be nuisances:

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**
5. Construction and Repair of Buildings **(See Chapter 155)**

**50.04 NUISANCES PROHIBITED.** The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

*(Code of Iowa, Sec. 657.3)*

**50.05 NUISANCE ABATEMENT.** Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

*(Code of Iowa, Sec. 364.12[3h])*

**50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE.** Any nuisance, public or private, may be abated in the manner provided for in this section:

*(Code of Iowa, Sec. 364.12[3h])*

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
  - A. Description of Nuisance. A description of what constitutes the nuisance.

---

† **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

- B. Location of Nuisance. The location of the nuisance.
- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.  
*(Code of Iowa, Sec. 364.12[3h])*
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.  
*(Code of Iowa, Sec. 364.12[3h])*
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.  
*(Code of Iowa, Sec. 364.12[3h])*
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.  
*(Code of Iowa, Sec. 364.12[3h])*
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.  
*(Code of Iowa, Sec. 364.13)*
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

**50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE.** In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

### 51.05 Notice to Abate

**51.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery, and appliances or parts of such vehicles, machinery, or appliances; iron, steel, or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:

A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel, or trunk lid.

C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.

D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.

E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.

F. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

**51.02 JUNK AND JUNK VEHICLES PROHIBITED.** It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.

**51.03 JUNK AND JUNK VEHICLES A NUISANCE.** It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the *Code of Iowa*. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

*(Code of Iowa, Sec. 364.12[3a])*

**51.04 EXCEPTIONS.** The provisions of this chapter do not apply to any junk or a junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

**51.05 NOTICE TO ABATE.** Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

*(Code of Iowa, Sec. 364.12[3a])*

## CHAPTER 52

# MOWING OF PROPERTIES

52.01 Mowing of Properties  
52.02 Penalty

52.03 Method of Service

**52.01 MOWING OF PROPERTIES.** All property within the City, whether vacated or not vacated, is required to be mowed any time the vegetation reaches a height of more than eight inches.

**52.02 PENALTY.** The City, or its agents, may mow any property which is not mowed by the time the vegetation reaches a height of eight inches, and a charge of \$75.00 per hour for such mowing, plus a surcharge of \$50.00, will be charged to the property owner with a minimum charge of \$125.00 for any property mowed by the City or its agents. The City Clerk will certify the cost and assessments to the County Treasurer and it shall then be collected with and in the same manner as general taxes.

**52.03 METHOD OF SERVICE.** Property owners in violation of Section 52.01 will be mailed a notice by regular mail. Owners shall be allowed five days from the date the notice is mailed to comply with Section 52.01. If the violation of 52.01 is not corrected within five days the City will proceed as set forth in Section 52.02.



[The next page is 265]

## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Confinement
55.02 Animal Neglect	55.12 Summons Issued
55.03 Livestock Neglect	55.13 Right to Kill Unlicensed Dogs
55.04 Abandonment of Cats and Dogs	55.14 Right to Kill Licensed Dogs
55.05 Livestock	55.15 Disposal of Other Animals
55.06 At Large Prohibited	55.16 Exemption of Police Service Dogs
55.07 Damage or Interference	55.17 Pet Awards Prohibited
55.08 Annoyance or Disturbance	55.18 Tampering with a Rabies Vaccination Tag
55.09 Rabies Vaccination	55.19 Tampering with an Electronic Handling Device
55.10 Owner's Duty	

**55.01 DEFINITIONS.** The following terms are defined for use in this chapter.

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

*(Code of Iowa, Sec. 717E.1)*

2. "Animal" means a nonhuman vertebrate.

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

3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

*(Code of Iowa, Sec. 162.2)*

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

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

*(Code of Iowa, Sec. 717E.1)*

A. The sale or offer for sale of goods or services.

B. A recruitment for employment or membership in an organization.

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

6. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

*(Code of Iowa, Sec. 717.B1)*

7. "Fair" means any of the following:

*(Code of Iowa, Sec. 717E.1)*

A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.

- B. An exhibition of agricultural or manufactured products.
- C. An event for operation of amusement rides or devices or concession booths.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.  
(*Code of Iowa, Sec. 717E.1*)
9. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.  
(*Code of Iowa, Sec. 717.B1*)
10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.  
(*Code of Iowa, Sec. 717.1*)
11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
12. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.  
(*Code of Iowa, Sec. 717E.1*)
13. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.  
(*Code of Iowa, Sec. 162.2*)
14. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.  
(*Code of Iowa, Sec. 162.2*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.  
(*Code of Iowa, Sec. 717.B1*)

#### **55.02 ANIMAL NEGLECT.**

1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal’s welfare:  
(*Code of Iowa, Sec. 717B.3*)

- A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.
  - B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.
  - C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.
  - D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.
  - E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.
  - F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:
    - (1) A condition caused by failing to provide for the animal's welfare as described in this section.
    - (2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.
2. This section does not apply to any of the following:
- A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:
    - (1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.
    - (2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.
  - B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

**55.03 LIVESTOCK NEGLECT.** It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices, or to deprive the livestock of necessary sustenance, or to injure or destroy livestock by any means that causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

*(Code of Iowa, Sec. 717.2)*

**55.04 ABANDONMENT OF CATS AND DOGS.** It is unlawful for a person who owns or has custody of a cat or dog to relinquish all rights in and duties to care for the cat or dog. This section does not apply to any of the following:

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.
3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

**55.05 LIVESTOCK.** It is unlawful for a person to keep livestock within the City except by written consent of the Council.

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

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

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

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

*(Code of Iowa, Sec. 351.33)*

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

*(Code of Iowa, Sec. 351.38)*

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

*(Code of Iowa, Sec. 351.39)*

**55.12 SUMMONS ISSUED.** The owner of any dog or other animal shall be issued a summons to appear before a proper court to answer charges of permitting such dog or animal to be at large in violation of this chapter.

**55.13 RIGHT TO KILL UNLICENSED DOGS.** It is lawful for any person, and the duty of all peace officers, to kill any dog for which a license is required, when the dog is not wearing a collar with a license tag attached as herein provided.

*(Code of Iowa, Sec. 351.26)*

**55.14 RIGHT TO KILL LICENSED DOGS.** It is lawful for any person to kill a dog that is licensed and wearing a collar with license tag attached, when the dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl or when such dog is attacking or attempting to bite a person.

*(Code of Iowa, Sec. 351.27)*

**55.15 DISPOSAL OF OTHER ANIMALS.** If the owner of any animal apprehended, other than a dog, cannot be located after a reasonable effort by local authorities, such animal may be humanely destroyed or otherwise disposed of in accordance with the law.

**55.16 EXEMPTION OF POLICE SERVICE DOGS.** “Police service dog” means a dog used by a peace officer or correctional officer in the performance of the officer’s duties. The provisions set forth in this chapter do not apply to police service dogs.

**55.17 PET AWARDS PROHIBITED.**

*(Code of Iowa, Ch. 717E)*

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
  - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting, or fishing, including but not limited to the Iowa Sportsmen's Federation.

**55.18 TAMPERING WITH A RABIES VACCINATION TAG.** It is unlawful to tamper with a rabies vaccination tag.

*(Code of Iowa, Sec. 351.45)*

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:
  - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
  - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.
2. This section shall not apply to an act taken by any of the following:
  - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
  - B. A peace officer.
  - C. A veterinarian.
  - D. An animal shelter or pound.

**55.19 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE.** It is unlawful to tamper with an electronic handling device.

*(Code of Iowa, Sec. 351.46)*

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
  - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
  - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
2. This section shall not apply to an act taken by any of the following:
  - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
  - B. A peace officer.
  - C. A veterinarian.
  - D. An animal shelter or pound.

## CHAPTER 56

# DANGEROUS AND VICIOUS ANIMALS

### 56.01 Definitions

### 56.03 Seizure, Impoundment and Disposition

### 56.02 Keeping of Dangerous or Vicious Animals Prohibited

**56.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. "Dangerous animal" means: (i) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (ii) any animal declared to be dangerous by the State, County Board of Health, or Council or its designee; and (iii) the following animals, which are deemed to be dangerous animals per se:

- A. Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats.
- B. Wolves, coyotes, and foxes.
- C. Badgers, wolverines, weasels, skunk and mink.
- D. Raccoons.
- E. Bears.
- F. Monkeys and chimpanzees.
- G. Bats.
- H. Alligators and crocodiles.
- I. Scorpions.
- J. Snakes that are venomous or constrictors.
- K. Gila monsters.
- L. Pit bull terriers, including the following:
  - (1) The bull terrier breed of dog.
  - (2) The Staffordshire bull terrier breed.
  - (3) The American Staffordshire terrier breed.
  - (4) The American pit bull terrier breed.
  - (5) Dogs of mixed breed or other breeds which are known as pit bulls, pit bulldogs, or pit bull terriers.
  - (6) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers or a combination of any of these breeds.
- M. Any dog or other animal which has a known propensity, tendency, or disposition to attack human beings or domestic animals without provocation,



as evidenced by its habitual or repeated chasing, snapping, or barking at human beings or domestic animals so as to potentially cause injury or to otherwise endanger their safety; or any dog or other animal that manifests a disposition to snap or bite.

1. 2. “Vicious animal” means any animal, except for a dangerous animal as listed above, that has attacked, bitten, or clawed a person and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct that is known, or ought reasonably to be known, to the owner.

**56.02 KEEPING OF DANGEROUS OR VICIOUS ANIMALS PROHIBITED.** No person shall keep, shelter, or harbor any dangerous or vicious animal as a pet, or act as a temporary custodian for such animal, or keep, shelter, or harbor such animal for any purpose or in any capacity within the City except in the following circumstances: following circumstances:

1. The keeping of a dangerous or vicious animal for exhibition to the public by a bona fide traveling circus.
2. The keeping of a dangerous or vicious animal in a bona fide licensed veterinary hospital for treatment.
3. Any dangerous animal under the jurisdiction of, and in possession of, the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the *Code of Iowa*.
4. The keeping of a dangerous or vicious animal under the control of a law enforcement agency.

**56.03 SEIZURE, IMPOUNDMENT, AND DISPOSITION.**

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove the dangerous or vicious animal. The notice shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.
4. Within seven days of the Clerk receiving an appeal notice, a date of hearing for such appeal will be set. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.
5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three days, or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor or peace officer is authorized to seize, impound, or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

[The next page is 285]

## CHAPTER 60

# ADMINISTRATION OF TRAFFIC CODE

60.01 Title	60.05 Reports of Traffic Accidents
60.02 Definitions	60.06 Peace Officer's Authority
60.03 Administration and Enforcement	60.07 Obedience to Peace Officers
60.04 Power to Direct Traffic	60.08 Parades Regulated

**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Winthrop Traffic Code" (and are referred to herein as the "Traffic Code.")

**60.02 DEFINITIONS.** Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means all that territory lying within the boundaries of a line commencing at the northeast corner of Lot 8, Block 1, Cornick's Addition; thence south 700 feet; thence west to the west line of First Street; thence north to the south line of South Street; thence westerly to the east line of Fifth Street; thence north to the north line of Madison Street; thence east to the west line of Lot 8, Block 10, Original Plat of Winthrop; thence north to the south line of Lot 3, Block 10, Original Plat of Winthrop; thence east to the point of beginning.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.

10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

11. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

**60.03 ADMINISTRATION AND ENFORCEMENT.** Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the peace officer.

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

**60.04 POWER TO DIRECT TRAFFIC.** A peace officer or, in the absence of a peace officer, any officer of the Fire Department when at the scene of a fire, is authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

*(Code of Iowa, Sec. 102.4 & 321.236[2])*

**60.05 REPORTS OF TRAFFIC ACCIDENTS.** The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the City for the confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the *Code of Iowa*.

*(Code of Iowa, Sec. 321.273)*

**60.06 PEACE OFFICER’S AUTHORITY.** A peace officer is authorized to stop a vehicle to require exhibition of the driver’s license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading, or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

*(Code of Iowa, Sec. 321.492)*

**60.07 OBEDIENCE TO PEACE OFFICERS.** No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control, or regulate traffic.

*(Code of Iowa, Sec. 321.229)*

**60.08 PARADES REGULATED.** No person shall conduct or cause any parade on any street except as provided herein:

1. Definition. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Council. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.
4. Control by Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

o o o o o o o o o o

## CHAPTER 61

# TRAFFIC CONTROL DEVICES

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

**61.01 INSTALLATION.** The Council shall cause to be placed and maintained traffic control devices when and as required under this Traffic Code or under State law or emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic. The peace officer shall keep a record of all such traffic control devices.

*(Code of Iowa, Sec. 321.255)*

**61.02 CROSSWALKS.** The Council is hereby authorized to designate and maintain crosswalks by appropriate traffic control devices at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

*(Code of Iowa, Sec. 372.13[4] & 321.255)*

**61.03 TRAFFIC LANES.** The Council is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

*(Code of Iowa, Sec. 372.13[4] & 321.255)*

**61.04 STANDARDS.** Traffic control devices shall comply with standards established by *The Manual of Uniform Traffic Control Devices for Streets and Highways*.

*(Code of Iowa, Sec. 321.255)*

**61.05 COMPLIANCE.** No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the *Code of Iowa*.

*(Code of Iowa, Sec. 321.256)*



o o o o o o o o o o

## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations  
62.02 Play Streets Designated  
62.03 Vehicles on Sidewalks

62.04 Clinging to Vehicle  
62.05 Quiet Zones  
62.06 Obstructing View at Intersections

**62.01 VIOLATION OF REGULATIONS.** Any person who willfully fails or refuses to comply with any lawful order of a peace officer or direction of a Fire Department officer during a fire, or who fails to abide by the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this section. These sections of the *Code of Iowa* are adopted by reference and are as follows:

1. Display of Registration and License to Drive: 321.17, 321.32, 321.37, 321.38, 321.57, 321.67, 321.78, 321.79, 321.91, 321.98, 321.99, 321.104, 321.115, 321.174, 321.174A, 321.180, 321.180B, 321.193, 321.194, 321.208A, 321.216, 321.216B, 321.216C and 321.218 through 321.224.
2. All-Terrain Vehicles, Golf Carts, and Bicycles to Obey Traffic Regulations, Radar Jamming Devices, Road Workers: 321.232 through 321.234A, 235A and 321.247.
3. Traffic Signs, Signals, and Markings: 321.259 and 321.260.
4. Accidents and Accident Reporting: 321.262 through 321.266.
5. Operation of Motorcycles and Motorized Bicycles: 321.235B, 321.275.
6. Drag Racing; Speed; Open Containers; Control of Vehicle: 321.276, 321.277, 321.277A, 321.278, 321.281, 321.284, 321.284A, 321.288, 321.295, 321.333, 321.382 and 321.383.
7. Driving on Right, Meeting, Overtaking, Following, or Towing: 321.297 through 321.299 and 321.302 through 321.310.
8. Turning and Starting, Signals on Turning and Stopping: 321.312 through 321.318.
9. Right-of-Way: 321.319 through 321.324A.
10. Pedestrian Rights and Duties and Safety Zones: 321.329, 321.330, 321.332, 321.333, and 321.340.
11. Railroad Crossings: 321.341 through 321.344 and 321.344B.
12. Stopping, Standing, Parking: 321.354 and 321.359.
13. Unattended Vehicle, Obstructing Driver's View, Crossing Median, Following Fire Apparatus, or Crossing Fire Hose, and Putting Glass, Etc., on Streets: 321.362 through 321.371.
14. School Buses: 321.372.
15. Lighting Equipment Required and Time of Use: 321.384 through 321.390, 321.392 through 321.395, 321.398, 321.402 through 321.405, 321.408, 321.409, 321.415, 321.417 through 321.423. In accordance with authorization granted by

Section 321.395, *Code of Iowa*, motor vehicles parked upon any street where permitted by this chapter need not display required lights where there is sufficient light emitted from City street lights to reveal any person or object within a distance of 500 feet upon such street.

16. Brakes, Horns, Sirens, Mufflers, Wipers, Mirrors, Tires, Flares, Windows, Safety Belts, Texting, and Special Markings for Transporting Explosives: 321.430 through 321.434; 321.436 through 321.442; 321.444 through 321.446, 321.449, 321.449A, 321.449B and 321.450.

17. Size, Weight, and Load: 321.454 through 321.458, 321.460 through 321.463, 321.465 and 321.466.

18. Unsafe Vehicles: 321.381 and 321.381A.

**62.02 PLAY STREETS DESIGNATED.** The Council shall have authority to declare any street or part thereof a play street and cause to be placed appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

*(Code of Iowa, Sec. 321.255)*

**62.03 VEHICLES ON SIDEWALKS.** The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

**62.04 CLINGING TO VEHICLE.** No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person riding upon any bicycle, coaster, roller skates, in-line skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

**62.05 QUIET ZONES.** Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency.

**62.06 OBSTRUCTING VIEW AT INTERSECTIONS.** It is unlawful to allow any tree, hedge, billboard, or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

## CHAPTER 63

# SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

**63.01 GENERAL.** Every driver of a motor vehicle on a street shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other conditions then existing, and no person shall drive a vehicle on any street at a speed greater than will permit said driver to bring it to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using said street will observe the law.

*(Code of Iowa, Sec. 321.285)*

**63.02 STATE CODE SPEED LIMITS.** The following speed limits are established in Section 321.285 of the *Code of Iowa* and any speed in excess thereof is unlawful unless specifically designated otherwise in this chapter as a special speed zone.

1. Business District – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

**63.03 PARKS, CEMETERIES, AND PARKING LOTS.** A speed in excess of 15 miles per hour in any public park, cemetery, or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

*(Code of Iowa, Sec. 321.236[5])*

**63.04 SPECIAL SPEED ZONES.** In accordance with requirements of the Iowa Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Section 63.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

*(Code of Iowa, Sec. 321.290)*

-NONE-

**63.05 MINIMUM SPEED.** A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

*(Code of Iowa, Sec. 321.294)*

o o o o o o o o o o

## CHAPTER 64

# TURNING REGULATIONS

**64.01 TURNING AT INTERSECTIONS.** The driver of a vehicle intending to turn at an intersection shall do so as follows:

*(Code of Iowa, Sec. 321.311)*

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

The Council may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified above be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

o o o o o o o o o o

## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Through Streets  
65.02 Stop Required  
65.03 Three-Way Stop Intersections  
65.04 Four-Way Stop Intersections  
65.05 Yield Required

65.06 School Stops  
65.07 Stop Before Crossing Sidewalk  
65.08 Stop When Traffic Is Obstructed  
65.09 Yield to Pedestrians in Crosswalks

**65.01 THROUGH STREETS.** Every driver of a vehicle shall stop, unless a yield is permitted by this chapter, before entering an intersection with the following designated through streets.

*(Code of Iowa, Sec. 321.345)*

1. U.S. Highway 20, from east corporate limits to west corporate limits.
2. First Street from Madison Street to Kennedy Street.
3. Fifth Street from Madison Street to north corporate limits.
4. Hamilton Street from First Street to Fifth Street.

**65.02 STOP REQUIRED.** Every driver of a vehicle shall stop in accordance with the following:

*(Code of Iowa, Sec. 321.345)*

1. Washington Street. Vehicles traveling on Washington Street shall stop at Sixth Street.
2. Washington Street. Vehicles traveling on Washington Street shall stop at First Street.
3. Jefferson Street. Vehicles traveling on Jefferson Street shall stop at Sixth Street.
4. Jefferson Street. Vehicles traveling on Jefferson Street shall stop at First Street.
5. Adams Street. Vehicles traveling west on Adams Street shall stop at Sixth Street.
6. North Street. Vehicles traveling west on North Street shall stop at Sixth Street.
7. Fifth Street. Vehicles traveling on Fifth Street shall stop at Madison Street.
8. Fourth Street. Vehicles traveling south on Fourth Street shall stop at Madison Street.
9. Monroe Street. Vehicles traveling on Monroe Street shall stop at Sixth Street.
10. Monroe Street. Vehicles traveling on Monroe Street shall stop at Third Street.
11. Jackson Street. Vehicles traveling on Jackson Street shall stop at Third Street.
12. North Street. Vehicles traveling east on North Street shall stop at First Street.
13. First Street. Vehicles traveling south on First Street shall stop at Madison Street.



14. First Street. Vehicles traveling on First Street shall stop at the swimming pool crossing between the hours of 1:00 p.m. to 8:00 p.m. from Memorial Day through Labor Day.
15. Fourth Street. Vehicles traveling on Fourth Street shall stop at Monroe Street.
16. Fourth Street. Vehicles traveling on Fourth Street shall stop at Jackson Street.
17. Far East Street. Vehicles traveling on Far East Street shall stop at Monroe Street.
18. Second Street. Vehicles traveling on Second Street shall stop at Jefferson Street.
19. Sixth Street. Vehicles traveling on Sixth Street shall stop at Jackson Street.
20. Second Street. Vehicles traveling on Second Street shall stop at Kennedy Street.
21. Third Street. Vehicles traveling on Third Street shall stop at Kennedy Street.
22. Fourth Street. Vehicles traveling on Fourth Street shall stop at Kennedy Street.
23. North Street. Vehicles traveling on North Street shall stop at Madison Street.

**65.03 THREE-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:

*(Code of Iowa, Sec. 321.345)*

1. Madison Street and Sixth Street. Vehicles approaching the intersection of Madison Street and Sixth Street from the north, south, and west shall stop before entering such intersection.
2. Fifth Street. Vehicles approaching the intersection of Fifth Street and Hamilton Street from the north, south, and east shall stop before entering such intersection.

**65.04 FOUR-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

*(Code of Iowa, Sec. 321.345)*

1. Intersection of Madison Street and Third Street.
2. Intersection of Jefferson Street and Third Street.
3. Intersection of Fifth Street and Jackson Street.
4. Intersection of Washington Street and Third Street. *(Ord. 211 – Oct. 23 Supp.)*

**65.05 YIELD REQUIRED.** Every driver of a vehicle shall yield in accordance with the following:

*(Code of Iowa, Sec. 321.345)*

- NONE -

**65.06 SCHOOL STOPS.** At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 10 feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

*(Code of Iowa, Sec. 321.249)*

1. Intersection of Fifth Street and Jackson Street.
2. Intersection of Fifth Street and Hamilton Street.

**65.07 STOP BEFORE CROSSING SIDEWALK.** The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

*(Code of Iowa, Sec. 321.353)*

**65.08 STOP WHEN TRAFFIC IS OBSTRUCTED.** Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

**65.09 YIELD TO PEDESTRIANS IN CROSSWALKS.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

*(Code of Iowa, Sec. 321.327)*

[The next page is 309]

## CHAPTER 66

# LOAD AND WEIGHT RESTRICTIONS

### 66.01 Temporary Embargo

### 66.02 Permits for Excess Size and Weight

### 66.03 Load Limits Upon Certain Street

**66.01 TEMPORARY EMBARGO.** If the Council declares an embargo when it appears by reason of deterioration, rain, snow, or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

*(Code of Iowa, Sec. 321.471 & 472)*

**66.02 PERMITS FOR EXCESS SIZE AND WEIGHT.** The Council may, upon application and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by State law or the City over those streets or bridges named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

*(Code of Iowa, Sec. 321.473 & 321E)*

**66.03 LOAD LIMITS UPON CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

*(Code of Iowa, Sec. 321.473 & 475)*

**-NONE-**

o o o o o o o o o o

**CHAPTER 67**  
**PEDESTRIANS**

**67.01 Walking in Street**  
**67.02 Hitchhiking**

**67.03 Pedestrian Crossing**  
**67.04 Use of Sidewalks**

**67.01 WALKING IN STREET.** Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

*(Code of Iowa, Sec. 321.326)*

**67.02 HITCHHIKING.** No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

*(Code of Iowa, Sec. 321.331)*

**67.03 PEDESTRIAN CROSSING.** Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

*(Code of Iowa, Sec. 321.328)*

**67.04 USE OF SIDEWALKS.** Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.



**CHAPTER 68**  
**ONE-WAY TRAFFIC**

**68.01 ONE-WAY TRAFFIC REQUIRED.** Upon the following streets and alleys, vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

*(Code of Iowa, Sec. 321.236[4])*

**- NONE -**



o o o o o o o o o o

## CHAPTER 69

# PARKING REGULATIONS

69.01 Park Adjacent to Curb  
69.02 Parking on One-Way Streets  
69.03 Angle Parking  
69.04 Manner of Angle Parking  
69.05 Parking for Certain Purposes Illegal  
69.06 Parking Prohibited

69.07 Persons with Disabilities Parking  
69.08 No Parking Zones  
69.09 Truck Parking Limited  
69.10 Snow Emergency  
69.11 Fire Lanes

**69.01 PARK ADJACENT TO CURB.** No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

*(Code of Iowa, Sec. 321.361)*

**69.02 PARKING ON ONE-WAY STREETS.** No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

*(Code of Iowa, Sec. 321.361)*

**69.03 ANGLE PARKING.** Angle or diagonal parking is permitted only in the following locations:

*(Code of Iowa, Sec. 321.361)*

1. Third Street, on the east side from North Street to one-half block north of Madison Street.
2. Fifth Street, on the west side from Jackson Street to one-half block north of Hamilton Street.

**69.04 MANNER OF ANGLE PARKING.** Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

*(Code of Iowa, Sec. 321.361)*

**69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL.** No person shall park a vehicle upon public property for more than 72 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

*(Code of Iowa, Sec. 321.236[1])*

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.

3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

**69.06 PARKING PROHIBITED.** No one shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk.  
*(Code of Iowa, Sec. 321.358[5])*
2. Center Parkway. On the center parkway or dividing area of any divided street.  
*(Code of Iowa, Sec. 321.236[1])*
3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.  
*(Code of Iowa, Sec. 321.236[1])*
4. Sidewalks. On or across a sidewalk.  
*(Code of Iowa, Sec. 321.358[1])*
5. Driveway. In front of a public or private driveway.  
*(Code of Iowa, Sec. 321.358[2])*
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358[3])*
7. Fire Hydrant. Within five feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358[4])*
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.  
*(Code of Iowa, Sec. 321.358[6])*
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.  
*(Code of Iowa, Sec. 321.358[8])*
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.  
*(Code of Iowa, Sec. 321.358[9])*
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.  
*(Code of Iowa, Sec. 321.358[10])*
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.  
*(Code of Iowa, Sec. 321.358[11])*
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic

conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

*(Code of Iowa, Sec. 321.358[13])*

14. Churches, Nursing Homes and Other Buildings. A space of 50 feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than 25 sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

*(Code of Iowa, Sec. 321.360)*

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection do not apply to a vehicle parked in any alley that is 18 feet wide or less, provided that said vehicle is parked to deliver goods or services.

*(Code of Iowa, Sec. 321.236[1])*

16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.

*(Code of Iowa, Sec. 321.358[15])*

17. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

18. Parking or Terrace. Upon the parking or terrace, designated as that area between the curb line and the sidewalk line, where curbing has been installed.

19. 19. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

**69.07 PERSONS WITH DISABILITIES PARKING.** The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the *Code of Iowa* and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

*(Code of Iowa, Sec. 321L.4[2])*

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*.

- C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
- B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

**69.08 NO PARKING ZONES.** No one shall stop, stand, or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

*(Code of Iowa, Sec. 321.236[1])*

1. Along U.S. Highway 939, in front of the convenience store, as designated by yellow painted lines and No Parking signs.

**69.09 TRUCK PARKING LIMITED.** No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached except a light delivery truck, panel delivery truck, or pickup truck on Madison Street from Second Street to Fourth Street.

*(Code of Iowa, Sec. 321.236[1])*

**69.10 SNOW EMERGENCY.**

1. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the 48 hour period after cessation of such storm except as above-provided upon streets which have been fully opened. Such snow emergency may be extended or shortened when conditions warrant.

2. Proclamation. When weather forecasts or occurrences indicate the need, the Mayor shall proclaim a snow emergency and request all available news media to publicize the proclamation and applicable parking restrictions.

*(Code of Iowa, 321.236[1])*

**69.11 FIRE LANES.** No person shall stop, stand, or park a vehicle in a fire lane as provided herein.

*(Code of Iowa, Sec. 321.236)*

1. Fire Lanes Established. The Fire Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.
2. Signs and Markings. Wherever a fire lane has been designated, the Council shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.

3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

[The next page is 325]

## CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

**70.01 ARREST OR CITATION.** Whenever a peace officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate; or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

*(Code of Iowa, Sec. 805.6 & 321.485)*

**70.02 SCHEDULED VIOLATIONS.** For violations of the Traffic Code that are designated by Section 805.8A of the *Code of Iowa* to be scheduled violations, the scheduled fine for each of those violations shall be as specified in Section 805.8A of the *Code of Iowa*.

*(Code of Iowa, Sec. 805.8 & 805.8A)*

**70.03 PARKING VIOLATIONS: ALTERNATE.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$50.00 for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$100.00.

*(Code of Iowa, Sec. 321.236[1b] & 321L.4[2])*

**70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED.** When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

**70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.** In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code; and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

**70.06 IMPOUNDING VEHICLES.** A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, or highway to the



nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

*(Code of Iowa, Sec. 321.236[1])*

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

*(Code of Iowa, Sec. 321.236[1])*

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

*(Code of Iowa, Sec. 321.236[1])*

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

*(Code of Iowa, Sec. 321.236[1])*

[The next page is 331]

## CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

**75.01 PURPOSE.** The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. “All-terrain vehicle” or “ATV” means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*(Code of Iowa, Sec. 321I.1)*

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

*(Code of Iowa, Sec. 321I.1)*

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

*(Code of Iowa, Sec. 321I.1)*

A. “Off-road utility vehicle – Type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – Type 2” includes vehicles, other than Type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – Type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or

ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

*(Code of Iowa, Sec. 321G.1)*

**75.03 GENERAL REGULATIONS.** No person shall operate an ATV, off-road motorcycle, or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

*(Code of Iowa, Ch. 321G & Ch. 321I)*

**75.04 OPERATION OF SNOWMOBILES.** The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

*(Code of Iowa, Sec. 321G.9[4a])*

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

*(Code of Iowa, Sec. 321G.9[4c])*

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and

(4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

*(Code of Iowa, Sec. 321G.9[2])*

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

*(Code of Iowa, Sec. 321G.13[1h])*

4. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

*(Code of Iowa, Sec. 321G.9[4f])*

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground, or upon any other City-owned property without the express permission of

the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

**75.05 OPERATION OF ALL-TERRAIN VEHICLES.** The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

*(Code of Iowa, Sec. 321I.10[1 & 3])*

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

*(Code of Iowa, Sec. 321I.10[4])*

3. Railroad Right-of-Way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

*(Code of Iowa, Sec. 321I.14[1h])*

4. Parks and Other City Land. ATVs shall not be operated in any park, playground, or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

6. Direct Crossing. An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

*(Code of Iowa, Sec. 321I.10[5])*

A. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City to a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City.

**75.06 NEGLIGENCE.** The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile. The owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV or snowmobile at the time the injury or damage occurred.

*(Code of Iowa, Sec. 321G.18 & 321I.19)*

**75.07 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

*(Code of Iowa, Sec. 321G.10 & 321I.11)*

## CHAPTER 76

### BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Riding on Sidewalks
76.02 Traffic Code Applies	76.09 Towing
76.03 Double Riding Restricted	76.10 Improper Riding
76.04 Two Abreast Limit	76.11 Parking
76.05 Speed	76.12 Equipment Requirements
76.06 Emerging from Alley or Driveway	76.13 Special Penalty
76.07 Carrying Articles	

**76.01 SCOPE OF REGULATIONS.** These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

*(Code of Iowa, Sec. 321.236[10])*

**76.02 TRAFFIC CODE APPLIES.** Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the Traffic Code of the City applicable to the driver of a vehicle, except as to those provisions that by their nature can have no application. Whenever such person dismounts from a bicycle, the person shall be subject to all regulations applicable to pedestrians.

*(Code of Iowa, Sec. 321.234)*

**76.03 DOUBLE RIDING RESTRICTED.** A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

*(Code of Iowa, Sec. 321.234[3 and 4])*

**76.04 TWO ABREAST LIMIT.** Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

*(Code of Iowa, Sec. 321.236[10])*

**76.05 SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

*(Code of Iowa, Sec. 321.236[10])*

**76.06 EMERGING FROM ALLEY OR DRIVEWAY.** The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

*(Code of Iowa, Sec. 321.236[10])*

**76.07 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle, or article that prevents the rider from keeping at least one hand upon the handlebars.

*(Code of Iowa, Sec. 321.236[10])*

**76.08 RIDING ON SIDEWALKS.** The following provisions apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

*(Code of Iowa, Sec. 321.236[10])*

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

*(Code of Iowa, Sec. 321.236[10])*

3. Yield Right-of-Way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

*(Code of Iowa, Sec. 321.236[10])*

**76.09 TOWING.** It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

**76.10 IMPROPER RIDING.** No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding, or otherwise so as to disregard the safety of the operator or others.

**76.11 PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

*(Code of Iowa, Sec. 321.236[10])*

**76.12 EQUIPMENT REQUIREMENTS.** Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 300 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

2. Brakes Required. Every bicycle shall be equipped with a brake that will enable the operator to make the braked wheel skid on dry, level, clean pavement.

*(Code of Iowa, Sec. 321.236[10])*

**76.13 SPECIAL PENALTY.** Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five days for the first offense, 10 days for a second offense, and 30 days for a third offense.

[The next page is 345]

## CHAPTER 80

# ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Reclamation of Abandoned Vehicles

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

**80.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

*(Code of Iowa, Sec. 321.89[1] & Sec. 321.90)*

1. “Abandoned vehicle” means any of the following:
  - A. A vehicle that has been left unattended on public property for more than 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
  - B. A vehicle that has remained illegally on public property for more than 24 hours.
  - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
  - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.
  - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
  - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap, or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa State Patrol or any law enforcement agency of a county or city.

**80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity,



equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

*(Code of Iowa, Sec. 321.89[2])*

### **80.03 NOTICE BY MAIL.**

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody, no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
  - A. A description of the year, make, model and vehicle identification number of the vehicle.
  - B. The location of the facility where the vehicle is being held.
  - C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.
  - D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.
  - E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity, or of the assessment of fees and charges provided by this section, may ask for an evidentiary hearing before the police authority to contest those matters.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles, but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

*(Code of Iowa, Sec. 321.89[3])*

**80.04 RECLAMATION OF ABANDONED VEHICLES.** Prior to driving an abandoned vehicle away from the premises, a person who received (or who is reclaiming the vehicle on behalf of a person who received) notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in Section 321.20B of the *Code of Iowa*.

*(Code of Iowa, Sec. 321.89[3a])*

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder, or claimant shall pay \$5.00 if claimed within five days of impounding, plus \$2.00 for each additional day within the reclaiming period plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

*(Code of Iowa, Sec. 321.89[3a])*

**80.06 DISPOSAL OF ABANDONED VEHICLES.** If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

*(Code of Iowa, Sec. 321.89[4])*

**80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.** The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

*(Code of Iowa, Sec. 321.90[2e])*

**80.08 PROCEEDS FROM SALES.** Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor

vehicle or entitled lienholder for 90 days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

*(Code of Iowa, Sec. 321.89[4])*

**80.09 DUTIES OF DEMOLISHER.** Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

*(Code of Iowa, Sec. 321.90[3a])*

## CHAPTER 81

# RAILROAD REGULATIONS

### 81.01 Definitions

### 81.02 Obstructing Streets

### 81.03 Crossing Maintenance

**81.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Operator” means any individual, partnership, corporation, or other association that owns, operates, drives, or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

*(Code of Iowa, Sec. 321.1)*

**81.02 OBSTRUCTING STREETS.** Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley for a period of time in excess of 10 minutes except:

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

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

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

**81.03 CROSSING MAINTENANCE.** Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

*(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])*

*(Code of Iowa, Sec. 364.11)*

[The next page is 361]

## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Fee for Permit	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting Off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	

**90.01 DEFINITIONS.** The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent, or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

**90.02 SUPERINTENDENT'S DUTIES.** The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

**90.03 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits shall be connected to the public water system. It is unlawful for anyone to drill a well within the City limits.

**90.04 ABANDONED CONNECTIONS.** When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

**90.05 PERMIT.** Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 60 days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

**90.06 FEE FOR PERMIT.** Before any permit is issued the person who makes the application shall pay \$50.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

*(Code of Iowa, Sec. 384.84)*

**90.07 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the *State Plumbing Code*.

**90.08 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

**90.09 EXCAVATIONS.** All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

**90.10 TAPPING MAINS.** All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accordance with the following:

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

**90.11 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

**90.12 RESPONSIBILITY FOR WATER SERVICE PIPE.** All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

**90.13 FAILURE TO MAINTAIN.** When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.

*(Code of Iowa, Sec. 364.12[3a & h])*

**90.14 CURB VALVE.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

**90.15 INTERIOR VALVE.** There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

**90.16 INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

**90.17 COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

*(Code of Iowa, Sec. 364.12[3a & h])*

**90.18 SHUTTING OFF WATER SUPPLY.** The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

**90.19 OPERATION OF CURB VALVE AND HYDRANTS.** It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically



authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

## CHAPTER 91

# WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems; Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Costs

91.07 Meter Repairs

91.08 Right of Entry

91.09 Remote Water Meter Replacement and Fees

**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by the City.

**91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

**91.05 METER SETTING.** The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

**91.06 METER COSTS.** The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

**91.07 METER REPAIRS.** Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

**91.08 RIGHT OF ENTRY.** The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

**91.09 REMOTE WATER METER REPLACEMENT AND FEES.** If an individual refuses the City entry for purposes of replacing an existing manual read water meter with a remote read water meter, such person shall pay a monthly administrative fee of \$50.00 (for manual meter reading) until the resident allows for installation of a remote read water meter.

*(Section 91.09 – Ord. 210 – Oct. 23 Supp.)*

[The next page is 371]

## CHAPTER 92

# WATER RATES

92.01 Service Charges  
92.02 Rates For Service  
92.03 Rates Outside the City  
92.04 Billing for Water Service  
92.05 Service Discontinued

92.06 Lien for Nonpayment  
92.07 Lien Exemption  
92.08 Lien Notice  
92.09 Change of Occupancy Fee  
92.10 Temporary Vacancy

**92.01 SERVICE CHARGES.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises, or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

*(Code of Iowa, Sec. 384.84)*

1. First 1,000 gallons used per month @ \$10.00 (minimum bill).
2. Next 9,000 gallons used per month @ \$2.80 per 1,000 gallons.
3. Next 40,000 gallons used per month @ \$2.40 per 1,000 gallons.
4. Over 50,000 gallons used per month @ \$2.00 per 1,000 gallons
5. East Buchanan School shall be charged a flat rate of \$195.00 per month.

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 364.4 & 384.84)*

**92.04 BILLING FOR WATER SERVICE.** Water service shall be billed and payable in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Bills Issued. The Clerk shall prepare and issue bills for water service on or before the 1st day of each month.
2. Bills Payable. Bills for water service accounts shall be due and payable at the office of the Clerk by the fifteenth day of each month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent of the amount due shall be added to each delinquent bill.

**92.05 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. Each customer shall be notified, on the back of their water bill, that water bills 12 days past due are subject to discontinuance or disconnection of service. After 12 days are over, the Clerk will post a 24-hour notice of discontinuance or disconnection of water service on the door of the customer in whose name the delinquent charges were incurred. If the bill remains unpaid after 24 hours and if the delinquent customer does not request a hearing before the City Council, the water service will be discontinued or disconnected.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. Each delinquent customer who has received a 24-hour notice of discontinuance or disconnection of water service shall have the right to a hearing before the City Council on whether water services will be discontinued or disconnected, or not, if such hearing is requested from the Clerk, in writing, by the delinquent consumer within 24 hours of the posting of the notice by the Clerk. Such 24-hour notice shall notify the delinquent customer of the right to a hearing as specified in this paragraph:

(Form of Notice)

Account No. \_\_\_\_\_

For Service At: \_\_\_\_\_

**NOTICE OF DISCONTINUANCE OR DISCONNECTION  
OF WATER SERVICE  
AND RIGHT TO HEARING**

This is your 24-hour notice of discontinuance or disconnection of water service. To avoid discontinuance or disconnection of water service, your bill of \$ \_\_\_\_\_ must be paid in full by \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_. You have a right to a hearing before the City Council on whether your water service should be discontinued or disconnected or not. You must submit your request for hearing in writing to the City Clerk within 24 hours of the posting of this notice.

4. Service Discontinued or Disconnected. The Superintendent shall shut off or disconnect the supply of water to any customer who, not having requested a hearing, or after hearing and the City Council finding against said customer, has failed to make payment by the date specified in the notice of delinquency or by the date directed by the City Council after hearing.

5. Fees. There will be imposed a \$25.00 fee for a utility customer that is physically posted for discontinuance or disconnection due to nonpayment of their utility bill. In the event service is discontinued or disconnected, the entire bill plus a service restoration fee of \$25.00 must be paid prior to any renewal of service.

**92.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises.

Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

#### **92.07 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

1. **Water Service Exemption.** The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.
4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

**92.08 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**92.09 CHANGE OF OCCUPANCY FEE.** A service fee of \$10.00 shall be charged for restoring service upon any change in occupancy of a property.

**92.10 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a \$13.00 fee collected for shutting the water off at the curb valve and reading and removing the meter. If the City does not remove the meter and collect a meter reading, the fee for disconnection is \$10.00. There shall be a \$10.00 fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge.

[The next page is 381]

## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.



11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 SUPERINTENDENT.** The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. **Damage Sewer System.** Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

*(Code of Iowa, Sec. 716.1)*

2. **Surface Run-Off or Groundwater.** Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. **Manholes.** Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. **Objectionable Wastes.** Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. **Septic Tanks.** Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

*(Code of Iowa, Sec. 364.12[3f])*

6. **Untreated Discharge.** Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

*(Code of Iowa, Sec. 364.12[3f])*

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 30 days after date of official notice from the City to do so provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

*(Code of Iowa, Sec. 364.12[3f])*

*(567 IAC 69.1[3])*

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

*(Code of Iowa, Sec. 364.4[2 & 3])*

**95.07 RIGHT OF ENTRY.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

**95.09 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except Subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in Subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 30 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE.** The person who makes the application shall pay a fee in the amount of \$50.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

**96.03 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

**96.04 EXCAVATIONS.** All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

**96.05 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and

watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

- A. Recommended grade at one-fourth inch per foot.
- B. Minimum grade of one-eighth inch per foot.
- C. Minimum velocity of two feet per second with the sewer half full.
- D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement

floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

**96.06 INTERCEPTORS REQUIRED.** Grease, oil, sludge, and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

**96.08 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**96.10 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

*(Code of Iowa, Sec. 364.12[3])*

## CHAPTER 97

# USE OF PUBLIC SEWERS

97.01 Storm Water  
97.02 Surface Waters Exception  
97.03 Prohibited Discharges  
97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent  
97.06 Special Facilities  
97.07 Control Manholes  
97.08 Testing of Wastes

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

**97.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in the best interests of the sewer system.

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
  - A. Any waters or wastes: (i) having a five-day B.O.D. greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million



by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the B.O.D. to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

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

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

**CHAPTER 98**  
**ON-SITE WASTEWATER SYSTEMS**

**98.01** When Prohibited  
**98.02** When Required  
**98.03** Compliance with Regulations  
**98.04** Permit Required

**98.05** Discharge Restrictions  
**98.06** Maintenance of System  
**98.07** Systems Abandoned  
**98.08** Disposal of Septage

**98.01 WHEN PROHIBITED.** Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

*(Code of Iowa, Sec. 364.12[3f])*

**98.02 WHEN REQUIRED.** When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

*(567 IAC 69.1[3])*

**98.03 COMPLIANCE WITH REGULATIONS.** The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

*(567 IAC 69.1[3 and 4])*

**98.04 PERMIT REQUIRED.** No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

**98.05 DISCHARGE RESTRICTIONS.** It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

*(567 IAC 69.1[3])*

**98.06 MAINTENANCE OF SYSTEM.** The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

**98.07 SYSTEMS ABANDONED.** At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

*(Code of Iowa, Sec. 364.12[3f])*

**98.08 DISPOSAL OF SEPTAGE.** No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

o o o o o o o o o o

## CHAPTER 99

# SEWER SERVICE CHARGES

**99.01 Sewer Service Charges Required**

**99.02 Special Rates**

**99.03 Private Water Systems**

**99.04 Payment of Bills**

**99.05 Lien for Nonpayment**

**99.06 Special Agreements Permitted**

**99.01 SEWER SERVICE CHARGES REQUIRED.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

*(Code of Iowa, Sec. 384.84)*

1. First 1,000 gallons used per month @ \$27.00 (minimum bill).
2. Next 9,000 gallons used per month @ \$7.56 per 1,000 gallons.
3. Next 40,000 gallons used per month @ \$6.48 per 1,000 gallons.
4. Over 50,000 gallons used per month @ \$5.40 per 1,000 gallons.
5. East Buchanan School shall be charged a flat rate of \$526.50 per month.

**99.02 SPECIAL RATES.** Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

*(Code of Iowa, Sec. 384.84)*

**99.03 PRIVATE WATER SYSTEMS.** Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

*(Code of Iowa, Sec. 384.84)*

**99.04 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.05 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.06 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

[The next page is 415]

## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.09 Waste Storage Containers
105.04 Health and Fire Hazard	105.10 Prohibited Practices
105.05 Open Burning Restricted	105.11 Sanitary Disposal Project Designated
105.06 Separation of Yard Waste Required	

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.  
*(Code of Iowa, Sec. 455B.361[1])*
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.  
*(567 IAC 100.2)*
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.  
*(567 IAC 20.2)*
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.  
*(Code of Iowa, Sec. 455B.361[2])*
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.



8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.

*(567 IAC 100.2)*

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

*(567 IAC 20.2)*

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

*(567 IAC 100.2)*

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

*(567 IAC 100.2)*

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

*(Code of Iowa, Sec. 455B.301)*

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

*(Code of Iowa, Sec. 455B.301)*

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(567 IAC 23.2 and 100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(567 IAC 23.2[3]"a")*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(567 IAC 23.2[3]"b")*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(567 IAC 23.2[3]"c")*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(567 IAC 23.2[3]"d")*

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air

contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(567 IAC 23.2[3]“e”)*

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

*(567 IAC 23.2[3]“f”)*

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(567 IAC 23.2[3]“g”)*

8. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium, or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

*(567 IAC 23.2[3]“h”)*

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(567 IAC 23.2[3]“i”)*

10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

*(567 IAC 23.2[3]“j”)*

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(567 IAC 23.2[2])*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps. Tree limbs (only) will be accepted at the Landscape Waste Site, located adjacent to the sewer plant. An entrance code may be obtained by calling the City Clerk’s office. Anyone caught illegally dumping will be prosecuted to the full extent of the law and will lose landscaping waste dumping rights indefinitely.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(567 IAC 100.2)*

*(567 IAC 102.13[2] and 400 IAC 27.14[2])*

**105.09 WASTE STORAGE CONTAINERS**

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential solid waste and recycling containers shall be provided to residential customers by the City’s contracted waste/recycling disposal company.

B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Buchanan County are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

## CHAPTER 106

# COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection  
106.05 Bulky Rubbish

106.06 Right of Entry  
106.07 Contract Requirements  
106.08 Collection Fees  
106.09 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(567 IAC 104.9)*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 CONTRACT REQUIREMENTS.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

**106.08 COLLECTION FEES.** The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449 [Iowa 1970])*

1. Schedule of Monthly Fees.
  - A. Commercial Accounts: \$5.85 Landfill Fee
  - B. Residential Accounts: \$18.00 Garbage/Recycling Fee
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment for water service as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.09 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

[The next page is 445]

## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Franchise Granted

110.02 Mains and Pipes; Indemnification

110.03 Excavations

110.04 Construction and Maintenance

110.05 Service Requirements

110.06 Nonexclusive

110.07 Term of Franchise

110.08 Entire Agreement

**110.01 FRANCHISE GRANTED** There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise, and privilege for the term of 25 years<sup>†</sup> subject to a limited right of cancellation at the end of the tenth, fifteenth, and twentieth year anniversaries of the anniversary date as defined within, from, and after the passage, adoption, approval, and acceptance of the ordinance codified by this chapter, to lay down, maintain, and operate the necessary pipes, mains, and other conductors and appliances in, along, and under the streets, avenues, alleys, and public places in the City, as now or hereafter constituted for the purpose of distributing, supplying, and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; the franchise also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas” as used in this franchise shall be construed to mean natural gas only.

**110.02 MAINS AND PIPES; INDEMNIFICATION.** The mains and pipes of the Company must be so placed as to not interfere unnecessarily with water pipes, drains, sewers, and fire plugs which have been or may hereafter be placed in any street, alley, and public places in the City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation, and maintenance of said natural gas distribution system.

**110.03 EXCAVATIONS.** In making any excavations in any street, alley, avenue, or public place, the Company, its successors, and assigns shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

**110.04 CONSTRUCTION AND MAINTENANCE.** The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement of, in, or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private

---

<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 133, adopting a natural gas franchise for the City, was passed and adopted on August 2, 2006.



project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

**110.05 SERVICE REQUIREMENTS.** Said Company and its successors and assigns shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, any prevention of service caused by fire, act of God, or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

**110.06 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**110.07 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of 25 years after its acceptance by the Company, as herein provided. The City may cancel the franchise on the tenth, fifteenth, and twentieth year anniversary of the anniversary date of this franchise by notifying Company in writing of its desire to do so, said notification to be given within 30 days of the tenth, fifteenth, and twentieth anniversary respectively of the franchise. If Company is not notified of the cancellation by the tenth, fifteenth, and twentieth anniversary, then this franchise shall continue without cancellation until the twenty-fifth year. The Anniversary Date shall be the date this franchise is filed with the City Clerk or otherwise effective by operation of law.

**110.08 ENTIRE AGREEMENT.** This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

[The next page is 451]

## CHAPTER 111

# ELECTRIC FRANCHISE

111.01 Franchise Granted	111.06 System Requirements
111.02 Poles and Wires; Indemnification	111.07 Nonexclusive
111.03 Excavations	111.08 Continuous Service
111.04 Construction and Maintenance	111.09 Term of Franchise
111.05 Meters	111.10 Entire Agreement

**111.01 FRANCHISE GRANTED** There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City. The franchise also includes the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of 25 years<sup>†</sup> subject to a limited right of cancellation at the end of the tenth, fifteenth, and twentieth year anniversaries of the Anniversary Date as defined within; the franchise also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

**111.02 POLES AND WIRES; INDEMNIFICATION.** The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**111.03 EXCAVATIONS.** In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

**111.04 CONSTRUCTION AND MAINTENANCE.** The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private

---

<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 132, adopting an electric franchise for the City, was passed and adopted on August 2, 2006.

project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

**111.05 METERS.** The Company, its successors and assigns shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

**111.06 SYSTEM REQUIREMENTS.** The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

**111.07 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**111.08 CONTINUOUS SERVICE.** Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

**111.09 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of 25 years after its acceptance by the Company, as herein provided. The City may cancel this franchise on the tenth, fifteenth, and twentieth year anniversary of the Anniversary Date of this franchise by notifying Company in writing of its desire to do so, said notification to be given within 30 days of the tenth, fifteenth, and twentieth anniversary respectively of this franchise. If Company is not notified of the cancellation by the tenth, fifteenth, and twentieth anniversary, then this franchise shall continue without cancellation until the twenty-fifth year. The Anniversary Date shall be the date this franchise is filed with the City Clerk or otherwise effective by operation of law.

**111.10 ENTIRE AGREEMENT.** This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

[The next page is 457]

## CHAPTER 112

# TELEPHONE FRANCHISE

112.01 Definition	112.05 Company Liability; Indemnification
112.02 Grant of Authority	112.06 Company Rules
112.03 Term of Franchise	112.07 Use and Occupancy
112.04 Compliance With Applicable Laws and Ordinances	112.08 Tree Trimming
	112.09 Penalty Provisions

**112.01 DEFINITION.** For the purpose of this chapter, “Company” means the East Buchanan Telephone Cooperative, its successors, and assigns.

**112.02 GRANT OF AUTHORITY.** There is hereby granted by the City to the Company, the right and privilege to construct, erect, operate, and maintain in, upon, along, across, above, over, and under streets, alleys, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, anchors, manholes, and other telephone fixtures necessary or proper for the maintenance and operation in the City of a telephone exchange and lines connected therewith.

**112.03 TERM OF FRANCHISE.** The franchise and rights therein granted shall take effect and be in full force from and after the final passage hereof, as required by law, and upon the filing of acceptance by the company with the City Clerk, and shall continue in full force and effect for a term of 25 years<sup>†</sup> from and after the effective date of the franchise, and shall supersede the franchise and rights heretofore granted the Company by the City.

**112.04 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.** The Company shall, at all times during the life of the franchise, be subject to all lawful exercise of police powers by the City and to such reasonable regulations as the City shall hereafter by resolution or ordinance provide.

**112.05 COMPANY LIABILITY; INDEMNIFICATION.** It is expressly understood and agreed by and between the Company and the City that the Company shall save the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim, or demand whatsoever resulting from negligence on the part of the Company in the construction, operation or maintenance of its telephone system in the City. The City shall notify the Company’s representative in the City within five days after the presentation of any claim or demand, either by suit or otherwise, made against the City on account of any negligence aforesaid on the part of the Company.

**112.06 COMPANY RULES.** The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights, and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of laws of the State.

---

<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 93, adopting a telephone franchise for the City, was passed and adopted on April 1, 1996.

**112.07 USE AND OCCUPANCY.** All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

**112.08 TREE TRIMMING.** The Company shall have the authority to trim trees overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

**112.09 PENALTY PROVISIONS.** Any person who shall cut, injure or destroy any of the poles, wires, fixtures, conduits, cables or any other property of the company lawfully erected, maintained or being within the corporate limits of said City, or who shall post bills or signs upon any of the poles or other property, shall be deemed guilty of a misdemeanor.

[The next page is 463]

## CHAPTER 113

# CABLE TELEVISION FRANCHISE

113.01 Definitions	113.06 Surrender Right
113.02 Grant of Authority	113.07 Transfer
113.03 Compliance with Applicable Laws and Ordinances	113.08 Rules and Regulations
113.04 Construction and Maintenance	113.09 Acceptance
113.05 Franchise Term	113.10 Unlawful Acts

### 113.01 DEFINITIONS.

1. "Grantee" means East Buchanan Telephone Cooperative.
2. "Federal Communications Commission" or "FCC" means the present federal agency of that name as constituted by the Communications Act of 1934 or any successor agency created by the United States Congress.
3. "Gross Subscriber Revenues" includes any and all compensation or receipts derived by the Grantee from installation, disconnection and reinstallation charges and periodic service charges in connection with the carriage of broadcast signals and Federal Communications Commission mandated non-broadcast services within the City but does not include any refunds or credits made to subscribers or any taxes imposed on the services furnished by the Grantee. Nor does it include revenue from "ancillary" or "auxiliary" services, which include, and are limited to, advertising, leased channels, and programming supplied on a per-program or per-channel charge basis, if any.
4. "Regular Subscriber Services" includes the carriage of broadcast signals and FCC mandated non-broadcast services, but does not include "ancillary" or "auxiliary" services, which include, but are not limited to, advertising, leased channels and programming supplied on a per-program or per-channel charge basis, if any.

**113.02 GRANT OF AUTHORITY.** There is hereby granted by the City to Grantee the right and privilege to construct, erect, establish, maintain, and operate in, upon, along, across, over, and under public ways, public places, and public property now laid out or dedicated and all extensions thereof and additions thereof in the City all poles, wires, cables, underground conduits, manholes, antennas, towers, appliances, and other conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the transmission of television signals and other signals, either separately or upon or in conjunction with any public utility maintaining the same in the City with all of the necessary and desirable appliances and appurtenances pertaining thereto. Without limiting the generality of the foregoing, this franchise and grant shall and does hereby include the right in, over, under, and upon the streets, sidewalks, alleys, easements, and public grounds and places in the City to install, erect, operate, maintain, or in any way acquire the use of, as by leasing or licensing, all lines and equipment necessary to a cable television system and the right to make connections to subscribers and the right to repair, replace, enlarge, and extend said lines, equipment and connections. The right herein granted for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, easements, public ways, and places to any person at any time during the period of the franchise.

**113.03 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.** The Grantee shall, at all times during the life of the franchise, be subject to all lawful exercise of police powers by the City, and to such reasonable regulations as the City shall hereafter by resolution or ordinance provide.

**113.04 CONSTRUCTION AND MAINTENANCE.**

1. Moving of Buildings. Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its lines to permit the moving of the building. The expense of such removal shall be paid by the person requesting the same and the Grantee shall have authority to require such payment in advance.

2. Tree Trimming. Grantee shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks and public places of the City so as to prevent the branches of such trees from coming into contact with Grantee's facilities.

3. Public Places. All poles, lines, structures and other facilities of the Grantee in, on, over and under the streets, sidewalks, alleys, easements, and public grounds or places of the City shall be kept by Grantee at all times in a safe and substantial condition.

**113.05 FRANCHISE TERM.** The franchise shall take effect and be in full force from and after acceptance by the Grantee and shall continue in full force and effect for a term of 25 years.<sup>†</sup> The renewal of said franchise shall be governed by the provisions of Section 364.2 of the *Code of Iowa*, as amended.

**113.06 SURRENDER RIGHT.** Grantee may surrender the franchise at any time upon filing with the Clerk a written notice of its intention to do so at least three months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges of Grantee shall terminate. All of the future obligations, duties and liabilities of Grantee in connection with the franchise shall terminate. Nothing in this section is intended to release Grantee from obligations and duties in effect prior to surrender, such as outstanding liabilities, liability claims, whether covered by insurance or not, or other obligations outstanding as of the date of surrender.

**113.07 TRANSFER.** All of the rights and privileges and all of the obligations, duties and liabilities created by the franchise shall pass to and be binding upon the successors of the City and the successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City, which approval shall not be unreasonably withheld; provided, however, that this section shall not prevent the assignment of the franchise by Grantee as security for debt without such approval.

**113.08 RULES AND REGULATIONS.** The Grantee shall have the right to prescribe reasonable service rules and regulations for the conduct of its business not inconsistent with the provisions of this chapter or any ordinances of the City, and a copy of such service rules and regulations shall be kept on file at all times with the Clerk.

---

<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 94, adopting a cable television franchise for the City, was passed and adopted on April 1, 1996.

**113.09 ACCEPTANCE.** The ordinance codified by this chapter shall become a valid and binding contract between the City and Grantee provided that Grantee shall, within 90 days after the final passage of the ordinance, file with the Clerk a written acceptance of the franchise herein granted agreeing that it will comply with all the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this chapter.

**113.10 UNLAWFUL ACTS.**

1. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of Grantee's cable system without payment to Grantee or its lessee.
2. It is unlawful for any person without the consent of the owner to willfully tamper with, remove or injure any cable, wires or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over Grantee's cable system.



[The next page is 475]

## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122, and 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39, and 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

*(Ord. 207 – Oct. 22 Supp.)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

*(Ord. 212 – Oct. 23 Supp.)*

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

*(Code of Iowa, Sec. 123.49[2b])*

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel

or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

*(Code of Iowa, Sec. 142D.2[1])*

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

*(Code of Iowa, Sec. 142D.2[17])*

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[2k])*

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class "B" retail alcohol license or an establishment employee when employed in compliance with State law.

*(Section 120.05 – Ord. 212 – Oct. 23 Supp.)*

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a retail alcohol license, as specifically authorized in said Chapter 99B.)

*(Code of Iowa, Sec. 99B.57)*

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

*(Section 120.06 – Ord. 207 – Oct. 22 Supp.)*

## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

**121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 and 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 and 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. *(Ord. 212 – Oct. 23 Supp.)*

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 & 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

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



o o o o o o o o o o

## CHAPTER 122

# PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. An application fee of \$2.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$10.00 per year.
2. Peddlers or Transient Merchants.
  - A. For one day.....\$ 5.00
  - B. For one week.....\$ 25.00
  - C. For up to six months.....\$100.00
  - D. For one year or major part thereof.....\$175.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s license in the merchant’s place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

**122.11 REVOCATION OF LICENSE.** Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee’s local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

**122.12 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and

notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.13 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.14 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.15 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.16 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

**122.17 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the East Buchanan Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

*(Code of Iowa, Sec. 364.3[13])*

**122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit

in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

## CHAPTER 123

# HOUSE MOVERS

123.01 House Mover Defined  
123.02 Permit Required  
123.03 Application  
123.04 Bond Required  
123.05 Insurance Required  
123.06 Permit Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the peace officer, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

**123.06 PERMIT FEE.** A permit fee of \$10.00 shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

**123.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

**123.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

[The next page is 495]

## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling on Barricaded Street or Alley	135.12 Property Damage
135.06 Use for Business Purposes	135.13 Dumping of Snow
135.07 Washing Vehicles	135.14 Driveway Culverts

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

*(Code of Iowa, Sec. 364.12[2])*

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.



**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.
4. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
5. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
6. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.
7. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

8. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
9. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
10. Permit Fee. A permit fee of \$10.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
11. Permit Issued. Upon approval of the application, filing of insurance certificate, and payment of any required fees, a permit shall be issued.

**135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.<sup>†</sup>

*(Code of Iowa, Sec. 364.12[2c])*

**135.11 FAILURE TO MAINTAIN.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2e])*

**135.12 PROPERTY DAMAGE.** Snow plowing and ice control operations can cause property damage under the best of circumstances and care on the part of the operators. The major types of damage are to improvements in the City right-of-way, which extends approximately 10 to 15 feet beyond the curb toward the residence. The intent of the right-of-way is to provide room for snow storage, utilities, sidewalks and other City uses. Private improvements such as mailboxes, landscaping and other private installations are located within this area.

1. Mailboxes. Mailboxes should be constructed sturdily enough to withstand snow rolling off a snow plow or wing. While the installation of mailboxes on the City right-of-way is permitted, the mailbox owner assumes all risk of damage and liability; except when a mailbox is damaged through contact by a snow plow blade, wing or other City equipment. If a mailbox is damaged due to direct contact by snow plowing equipment, the City, at its option, will repair or replace the mailbox at a cost not to exceed \$50.00. Damage resulting from snow rolling off a snow plow or wing is the direct responsibility of the resident.

---

<sup>†</sup> **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

2. Landscaping. Property owners should assume all risk of damage or liability for landscaping, including nursery and inanimate materials that are installed or encroach on the City right-of-way. The City assumes no responsibility for liability or damaged incurred to these non-permitted elements as a result of snow plowing and ice control activities. Inanimate materials such as boulders, timbers, etc. are a hazard and can cause damage to snow plow equipment and should not be placed in the City right-of-way.

3. Other Private Installations. The City will assume no responsibility or liability for any underground lawn sprinkling systems, exterior lighting systems, underground electronic dog fences and other non-permitted features installed in the City right-of-way.

**135.13 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

*(Code of Iowa, Sec. 364.12[2])*

**135.14 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:
  - A. Vertical separations equal to three-fourths inch or more.
  - B. Horizontal separations equal to one half inch or more.
  - C. Holes or depressions equal to three-fourths inch or more and at least four inches in diameter.
  - D. Spalling over 50 percent of a single square of the sidewalk with one or more depressions equal to one-half inch or more.
  - E. Spalling over less than 50 percent of a single square of the sidewalk with one or more depressions equal to three-fourths inch or more.
  - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - G. A sidewalk with any part thereof missing to the full depth.
  - H. A change from the design or construction grade equal to or greater than three-fourths inch per foot.
3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
5. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “Sidewalk improvements” means the construction, reconstruction, repair, replacement, or removal of a public sidewalk and/or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant, or person in charge of the lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians. If a property owner does not remove snow, ice, or accumulations within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

*(Code of Iowa, Sec. 364.12[2b & e])*

**136.04 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

*(Code of Iowa, Sec. 364.12[2c])*

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2d & e])*

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
  - C. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

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

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all

persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven feet above the surface of the sidewalk and the roof or covering is made of duck, canvas, or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

*(Code of Iowa, Sec. 364.12[2])*

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.



o o o o o o o o o o

## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate  
137.02 Notice of Vacation Hearing  
137.03 Findings Required

137.04 Disposal of Vacated Streets or Alleys  
137.05 Disposal by Gift Limited  
137.06 Vacated Streets and Alleys

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

*(Code of Iowa, Sec. 364.12[2a])*

**137.02 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.03 FINDINGS REQUIRED.** No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.04 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

*(Code of Iowa, Sec. 364.7)*

**137.05 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

*(Code of Iowa, Sec. 174.15[2] & 364.7[3])*

**137.06 VACATED STREETS AND ALLEYS.** Beginning at the northeast corner of Lot Five of Block 18 of Winthrop Original, thence east 2.47 feet, thence south parallel with the west line of Fourth Street 150.99 feet, thence southwesterly parallel with the north line of North Street 106 feet, thence north 12 feet to the north line of North Street, thence northeasterly along the north line of North Street to the southeast corner of Lot Five of Block 18 of Winthrop Original, thence north along the west line of Fourth Street to a point of beginning, all in the City of Winthrop, Buchanan County, Iowa, is hereby vacated.

**EDITOR'S NOTE**

No ordinances were available showing that any streets or alleys had been vacated although maps of the City indicate that numerous streets and/or alleys have been vacated. The ordinance adopting this Code of Ordinances generally saves from repeal any previously valid ordinances vacating streets or alleys even though such ordinances are not listed here.

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
44	No Date		
54	September 11, 1989		
101	July 1, 1998		
106	October 21, 1998		





## CHAPTER 139

# NAMING OF STREETS

139.01 Naming New Streets  
139.02 Changing Name of Street  
139.03 Recording Street Names

139.04 Official Street Name Map  
139.05 Revision of Street Name Map

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Winthrop, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

o o o o o o o o o o

## CHAPTER 140

# PUBLIC RIGHTS-OF-WAY

140.01 Purpose	140.13 Reimbursement of Costs
140.02 Definitions	140.14 Administration
140.03 Applicability	140.15 Audits
140.04 Authority	140.16 Reports and Records
140.05 Reservation of Rights; Police Power	140.17 Bond or Letter of Credit
140.06 Conditions for Using the Public Rights-of-Way	140.18 Insurance
140.07 Construction Standards	140.19 Enforcement
140.08 Placement of Facilities	140.20 Indemnification
140.09 Relocation of Facilities	140.21 Telecommunications Facilities
140.10 Restoration	140.22 Cable Facilities
140.11 Work Permits	140.23 Electric Facilities
140.12 Business License	140.24 Gas Facilities

**140.01 PURPOSE.** The purposes of this chapter are:

1. To manage a limited resource to the long-term benefit of the public;
2. To recover the costs of managing the public rights-of-way;
3. To minimize inconvenience to the public occasioned by the emplacement and maintenance of facilities in the public rights-of-way;
4. To prevent premature exhaustion of capacity in the public rights-of-way to accommodate communications and other services; and
5. To promote competition in the provision of telecommunications service in the City and ensure that citizens have a wide variety of services available to them by establishing clear and consistent rules by which providers may occupy the public rights-of-way.

**140.02 DEFINITIONS.** The following terms are defined for use in this chapter:

1. “Affiliate,” when used in relation to any person, means another person who *de facto* or *de jure* owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
2. “Certificate of compliance” means a certificate issued by the City to a person that has obtained an authorization in accordance with this chapter, as a prerequisite to obtaining work permits.
3. “Communications facility” or “communications system” means facilities for the provision of communications services, as that term is defined herein.
4. “Communications services” means telecommunications services, interactive computer services, and any other services involving the transmission of information by electronic or optical signals, except that it does not include “cable service” as that term is used in the Cable Communications Policy Act of 1984, as amended.
5. “Facility” or “facilities” means any tangible asset in the public rights-of-way used to provide utility or cable service.
6. “Federal Communications Commission” (or “FCC”) means the Federal Communications Commission or any successor.



7. “Franchise” means an authorization granted by the City to a person to construct, maintain or emplace facilities generally upon, across, beneath and over the public rights-of-way in the City.
8. “Franchise agreement” means a contract entered into between the City and a franchisee that sets forth the terms and conditions under which the franchise may be exercised.
9. “Franchisee” means a person that has been granted a franchise by the City.
10. “Owner or operator of a facility” means any person which has a possessory interest in such facility or that controls or is responsible for, through any arrangement, the management and operation of such facility.
11. “Person” means any individual, corporation, partnership, association, joint stock company, trust, governmental entity or any other legal entity, but not the City.
12. “Public rights-of-way” means the surface and space above, on and below any public highway, avenue, street, lane, alley, boulevard, concourse, driveway, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public easement or right-of-way within the City in which the City now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating and maintaining a facility.
13. “Registrant” means an operator or other person that has registered with the City in accordance with the provisions of this chapter.
14. “Registration” or “register” refers to the process described in this chapter whereby an owner or operator of a facility provides certain information to the City to obtain an authorization under this chapter.
15. “Telecommunications” has the meaning ascribed to it in 47 U.S.C. § 153(43).
16. “Telecommunications service” has the meaning ascribed to it in 47 U.S.C. § 153(46).
17. “Work permit” means an authorization issued by the City to enter upon the public rights-of-way at specified times and places to erect, construct, emplace or otherwise work on facilities.

**140.03 APPLICABILITY.** To the extent permitted by applicable federal, State and local law, this chapter shall apply to all owners or operators of facilities, as that term is described herein, in the public rights-of-way, in addition to, and not in lieu of any other provisions of this Code of Ordinances. To the extent there is a conflict between: (i) the terms and conditions of this chapter; and (ii) any existing ordinance that applies to an owner or operator of facilities in the public rights-of-way, the terms of the latter shall be expressly subordinate to the terms and conditions of the former. Any owner or operator of a facility that is not required to obtain a franchise or lease for any reason shall nonetheless be subject to the provisions of this chapter to the maximum extent permitted by law.

**140.04 AUTHORITY.** The ordinance codified in this chapter is adopted pursuant to the City’s powers, including (but not limited to) those under Section 38A of the Iowa Constitution and Section 364.2 of the *Code of Iowa*.

**140.05 RESERVATION OF RIGHTS; POLICE POWER.** No registration shall estop or limit the City in the full exercise of its governmental powers to protect the health and safety of

the public, and all its governmental powers may be fully exercised except as expressly provided to the contrary herein. In particular, and without limitation, the City expressly reserves the right to amend this chapter from time to time in the exercise of its governmental powers.

#### **140.06 CONDITIONS FOR USING THE PUBLIC RIGHTS-OF-WAY.**

1. Authorization Required. No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain or operate any facility upon, across, beneath or over any public right-of-way in the City or other City property without first obtaining from the City the necessary authorization required under local, State or federal law. An owner or operator of facilities may be required to hold different authorizations for its use of the public rights-of-way to provide different services. For example, and without limitation, the owner or operator of facilities that provides both cable service and electric services must also obtain both a cable franchise and a permit before the owner or operator may offer cable television service within the City.
2. Registration Required.
  - A. A person that desires to place or operate a facility shall first register with the City in accordance with this chapter. Subject to the terms and conditions prescribed in this chapter and to any other applicable ordinances and regulations of the City, an approved registrant may place and operate a facility in the City's public rights-of-way.
  - B. A registration shall be revocable at will to the extent permitted by State and federal law.
  - C. No reference herein, or in any registration issued hereunder, to a public right-of-way shall be deemed to be a representation or warranty by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a registrant shall be deemed to acquire only those rights of user as are properly in the City and as the City may have the undisputed right and power to give.
  - D. A registration under this chapter shall not convey any title or property interest, equitable or legal, in the public rights-of-way.
  - E. A registration under this chapter does not excuse a person from obtaining any necessary work permits before carrying out activities in the public rights-of-way.
  - F. A registration under this chapter does not excuse a person from obtaining any necessary pole attachment agreements or other permissions before locating its facilities on private property, or on public property other than the public rights-of-way.
  - G. Registration shall not in itself reserve priority over any other right-of-way users for the placement or maintenance of a facility. Registrations are expressly subject to any future amendment to this chapter and to any other lawful City ordinances, as well as to any applicable State or federal law.
3. Registration Requirements.
  - A. If a facility has more than one owner or operator, each such owner or operator must register.

B. Each person that wishes to place or maintain a facility shall file a registration with the City which shall include the following information:

- (1) Name of the registrant;
- (2) Name, address and telephone number of the registrant's primary contact person in connection with the registration;
- (3) Name, address and telephone number of the registrant's agent to contact in case of an emergency;
- (4) Evidence of the insurance coverage required under this chapter;
- (5) Acknowledgment that the registrant has received and reviewed a copy of this chapter;
- (6) A copy of the registrant's certificate of authorization or license to provide services issued by the Iowa Public Service Commission, the Federal Communications Commission, or other federal or State authority, if any; and
- (7) For any registrant that does not provide a Iowa Public Service Commission certificate of authorization number, if the registrant is a corporation, proof of authority to do business in the State of Iowa, including the number of the certificate of incorporation.

C. The Mayor shall review the information submitted by the registrant and respond in writing to the applicant within 30 days after receipt of registration information pursuant to this section. If the City determines that the information submitted by the registrant is in accordance with Paragraph B above, the City's response shall approve the registration, effective immediately. If the City determines that the information submitted by the registrant is not in accordance with Paragraph B above, the City shall notify the applicant that its registration is not effective, and shall identify the reasons for the insufficiency of the registration information.

D. A registrant may cancel its registration by written notice to the City stating that it will no longer place, maintain or operate any facilities in public rights-of-way within the City and will no longer need to obtain permits to perform work in public rights-of-way. A registrant may not cancel its registration if the registrant continues to place, maintain or operate any facilities in public rights-of-way.

E. Within 30 days of any change in the information that must be submitted pursuant to Paragraph B of this subsection, a registrant shall provide updated information to the City.

F. A registrant shall renew its registration with the City by April 1 of each even-numbered year, in accordance with the City's registration requirements. If no information in the then-existing registration has changed and no additional information needs to be submitted, the renewal shall state that no information has changed.

G. The Mayor shall issue a certificate of compliance to an owner or operator of a facility within 30 days after its registration or renewal if the following conditions have been met:

- (1) The owner or operator has provided evidence of valid registration under this section.
- (2) The owner or operator has demonstrated that it has in effect the bond or letter of credit required under Section 140.17.
- (3) The owner or operator has provided the certificate of insurance required under Section 140.18.
- (4) The City is not aware of any noncompliance by the owner or operator with applicable law.

H. If a registrant fails to timely renew its registration, the City may suspend any certificate of compliance issued pursuant to Section 140.06(3)(G) on the basis of the registration until the registrant has complied with the registration requirements of this chapter.

I. To the extent permitted by applicable law, the City may require a registrant that places or maintains facilities in the public rights-of-way to pay compensation to the City for such use or occupation of the public rights-of-way.

#### **140.07 CONSTRUCTION STANDARDS.**

1. Construction, operation, maintenance, and repair of facilities shall be in accordance with all applicable law and regulation, and with sound industry practice. All safety practices required by law shall be used during construction, maintenance, and repair of facilities.
2. No franchisee, registrant or holder of any work permit for any facility shall dig, trench, or otherwise excavate in the public rights-of-way without complying with the provisions of the Iowa One Call system, *Code of Iowa Sec. 480.3 et. seq.*, or its successor.
3. An owner or operator shall at all times employ at least ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public.
4. In the event of a conflict among codes and standards, the most stringent code or standard shall apply (except insofar as those standards, if followed, would result in a system that could not meet requirements of federal, State or local law, or is expressly preempted by other such standards).
5. A franchisee or registrant shall have the authority to trim trees that overhang public rights-of-way of the City so as to prevent the branches of such trees from coming in contact with the facilities of the franchisee or registrant. Notwithstanding that grant of authority, if the franchisee or registrant performs the work, it shall be fully liable for any damages caused thereby, and shall be responsible for replacing damaged trees and shrubs. Franchisee or registrant shall be responsible for notifying abutting property owners prior to trimming trees and shall obtain permission from the City pursuant to the Code. At the option of the City, such trimming may be done by it.
6. The City may adopt additional standards as required to ensure that work continues to be performed in a safe, orderly and workmanlike manner.
7. Every owner or operator shall, at least 30 days prior to commencing significant construction activity (including a significant rebuild, upgrade, or repair to existing

facilities) upon, across, beneath, or over any public right-of-way in the City or other City property, specify in writing the date on which the owner or operator anticipates it will begin construction and the approximate length of time required for such construction.

8. Prior to the erection, construction, upgrade or rebuild of any facilities in the public right-of-way, the owner or operator of such facilities shall first submit to the City for approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required by the City, together with maps and plans indicating the proposed location of all such facilities. The owner or operator shall provide the best information it has in such reasonable format as may be specified by the City for the City's planning function. No such erection or construction shall be commenced by any person until approval therefor has been received from the City.

9. Any contractor or subcontractor used for work or construction, installation, operation, maintenance or repair of facilities in the public rights-of-way must be properly licensed under laws of the State and all applicable local ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as an owner or operator of the facility would have if the work were performed by the owner or operator. An owner or operator shall be responsible for all activities carried out by its contractors, subcontractors and employees at the owner or operator's request.

10. The owner or operator of facilities in the public rights-of-way shall notify the public prior to commencing any construction that will significantly disturb or disrupt public property or have the potential to present a danger or affect the safety of the public generally. Written notice of such construction work shall be delivered to the City at least one week prior to commencement of that work. Notice shall be provided to those persons most likely to be affected by the work in at least two of the following ways: by telephone, in person, by mail, by distribution of flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice. If an owner or operator must enter a building or other structure, it must schedule an appointment at the convenience of the owner or resident.

#### **140.08 PLACEMENT OF FACILITIES.**

1. All facilities shall be installed and located to minimize interference with the rights and convenience of other property owners.

2. An owner or operator of a facility shall not place facilities, equipment, or fixtures where they will interfere with any other utility or cable facilities, or obstruct or hinder in any manner the various utilities serving the residents of the City or their use of any public rights-of-way.

3. The City may reasonably direct the specific placement of facilities to ensure that users of the public rights-of-way do not interfere with each other and that the public rights-of-way are used safely and efficiently.

4. Every franchisee or registrant that shall cease operating or maintaining any facility shall, upon written request of the City within two years or the cessation or maintenance of such facility, promptly remove it. Should the franchisee or registrant neglect, refuse, or fail to remove such facility, the City may remove the facility at the expense of the franchisee or registrant. The obligation to remove shall survive the termination of the franchise or license for a period of two years and shall be bonded.

5. No owner or operator of a facility shall erect new aerial plant in or on a public right-of-way in which one or more public service providers (electricity, telephone, cable television) has placed its lines underground, or in an area which the City has by ordinance forbidden new aerial plant to be constructed or existing aerial plant to be maintained.
6. If at any time the City determines that existing wires, cables or other like facilities of public utilities anywhere in the City shall be changed from an overhead to underground installation, the owner or operator of a facility shall at the owner or operator's sole expense, convert its system to an underground installation.
7. To the extent practicable, above-ground equipment placed on private property shall be placed at the location requested by the property owner. An owner or operator shall provide affected homeowners with at least ten days' advance written notice of its plans to install such equipment, and shall make reasonable efforts to confer with such homeowners before any work is done.
8. Whenever above-ground equipment is placed on private property, the operator shall either provide landscaping camouflage acceptable to the property owner, at the operator's expense, or shall provide a cash allowance to the property owner for such landscaping in the amount of \$200.00 in 2000 dollars, adjusted annually for inflation based on the Consumer Price Index. An operator may provide such allowance either in the form of a credit against customer billings, if the property owner is a customer, or in the form of a cash payment.

#### **140.09 RELOCATION OF FACILITIES.**

1. The owner or operator of a facility on or within the public rights-of-way shall, at its own expense, upon written notice from the City reasonably in advance, promptly relocate any facility located on or within the public rights-of-way as the City may deem necessary or appropriate to facilitate the realignment, reconstruction, improvement or repair of public streets, sidewalks, curbs, drains, sewers, and public improvements of any sort; provided, however, an operator may be permitted to abandon any property in place with the written consent of the City.
2. If any removal, relaying, or relocation is required to accommodate the construction, operation or repair of the facilities of another person that is authorized to use the public rights-of-way, an owner or operator of a facility shall, upon 30 days' advance written notice, take action to effect the necessary changes requested by the responsible entity. The City may resolve disputes as to responsibility for costs associated with the removal, relaying, or relocation of facilities as among entities authorized to install facilities in the public rights-of-way if the parties are unable to do so themselves, and if the matter is not governed by a valid contract between the parties or a State or federal law or regulation.
3. In the event of an emergency, or where a facility creates or is contributing to an imminent danger to health, safety, or property, the City may remove, relay, or relocate any or all parts of that communications system without prior notice.

**140.10 RESTORATION.** If an owner or operator of a facility disturbs a pavement, sidewalk, driveway or other surfacing, or landscaping, either on private property or in public rights-of-way, the owner or operator shall, in a manner approved by the City, replace and restore all pavement, sidewalk, driveway or other surfacing, or landscaping disturbed, in substantially the same condition and in a good, workmanlike, timely manner, in accordance with any standards

for such work set by the City. Such restoration shall be undertaken within no more than 30 days after the damage is incurred, and shall be completed as soon as reasonably possible thereafter. The owner or operator shall guarantee and maintain such restoration for at least one year against defective materials or workmanship.

#### **140.11 WORK PERMITS.**

1. No person shall install, erect, hang, lay, bury, draw, emplace, construct, or reconstruct any facility upon, across, beneath, or over any public right-of-way in the City, or enter into the public rights-of-way to work on a facility, without first obtaining a work permit therefor from the City. The application for such permit shall be made on forms provided by the Mayor. The application shall include the location of the work, the depth or the height of the work, the plan for precautions to protect the public, City property and private property, the estimated duration of the work, the name and address of the company or individual who will do the work, and the general purpose of the work. No different or additional uses will be allowed except by written permission of the Mayor. The Mayor shall sign and issue the permit and state the time of issuance on the permit, if the proposed work meets all requirements of this chapter and if all fees required under this chapter have been paid. Work under any permit must be begun within 60 days of the issuance of the permit and completed within 180 days of its issuance unless extended for good cause shown by the Mayor. The Mayor may at any time revoke the permit for any violation of this chapter and require that the work be stopped.
2. An authorization under this chapter shall not render unnecessary or take the place of such work permits.
3. The City may withhold work permits for a facility if an owner or operator thereof lacks an effective certificate of compliance.
4. Any person who shall make the application shall pay \$100.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating and inspecting the work.

**140.12 BUSINESS LICENSE.** A franchise or lease under this chapter does not render unnecessary or take the place of any generally applicable business license that may be required by the City for the privilege of transacting and carrying on a business within the City generally.

**140.13 REIMBURSEMENT OF COSTS.** All registrants will reimburse the City for its internal and out-of-pocket costs, including but not limited to attorneys' and consultants' fees, actually and reasonably incurred by the City in connection with the review of any authorization under this chapter, as determined by the City after it takes action on the application. Any application fee submitted with the application will be credited against this amount. The applicant will remit to the City payment for such costs within 30 days of its receipt of the City's invoice.

**140.14 ADMINISTRATION.** The Mayor shall:

1. Collect any applicable fees from all owners or operators of facilities using public rights-of-way in the City.
2. Audit any franchise fees or payments owed to the City.
3. Publish from time to time a schedule of application and hearing fees, which shall be designed to recover the City's costs in processing applications hereunder and may provide specially for hearing fees in those cases where hearings are required.

4. Be responsible for the continuing enforcement of all terms and conditions of registrations under this chapter.
5. Review registration statements filed pursuant to Section 140.06(2).
6. Issue certificates of compliance pursuant to Section 140.06(3)(G).

**140.15 AUDITS.** Each owner and operator of facilities in the public rights-of-way shall maintain books, records, and plant accounts sufficient to document its obligations for right-of-way fees under this chapter or any other fee owed pursuant to this Code of Ordinances. Such books, records, and accounts shall be maintained and available for inspection for a period of four years; provided, however, such books, records, and accounts shall be maintained and available during the continuation of any audit by or on behalf of the City commenced during such four-year period or during any dispute or litigation with respect thereto.

**140.16 REPORTS AND RECORDS.**

1. Open Books and Records.
  - A. The City shall have the right to inspect and copy at any time during normal business hours at the nearest office of an owner or operator of a communications system, or at such other location as the City may reasonably designate, all books, receipts, maps, records, codes, programs, and disks or other storage media and other like material which the City reasonably deems appropriate in order to monitor compliance with the terms of this chapter or applicable law. This includes not only the books and records of the operator, but any books and records held by an affiliate, or any contractor, subcontractor or any person holding any form of management contract for the facilities in the public rights-of-way to the extent such books or records relate to the facilities. An owner or operator is responsible for collecting the information and producing it at a location as specified above.
  - B. Access to an owner or operator's records shall not be denied on the basis that said records contain proprietary information. Any confidential information received by the City shall remain confidential insofar as permitted by the Iowa Fair Information Practices Act, *Code of Iowa* Section 22.11 and other applicable State and federal law.
2. Annual Report. Unless this requirement is waived in whole or in part in writing by the City, no later than 90 days after the end of its fiscal year, each owner or operator of facilities in the public rights-of-way shall submit a written report to the City, in a form directed by the City, which shall include:
  - A. An organizational chart showing all corporations or partnerships with more than a five percent ownership interest in the owner or operator, and the nature of that ownership interest (limited partner, general partner, preferred shareholder, etc.); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified, and so on until the ultimate corporate and partnership interests are identified.
  - B. Detailed, updated maps depicting the location of all facilities in the City.



3. Special Reports. Unless this requirement is waived in whole or in part by the City, the owner or operator of facilities in the public rights-of-way shall deliver the following special reports to the City:

A. An owner or operator shall submit monthly construction reports to the City for any major construction undertaken in the public rights-of-way until such construction is complete. The owner or operator must submit updated as-built system design maps to the City, or make them available for inspection with notice of their availability, within 30 days of the completion of system construction in any geographic area. These maps shall be developed on the basis of post-construction inspection by the owner or operator and construction personnel. Any departures from design must be indicated on the as-built maps.

B. An owner or operator must submit a copy and brief explanation of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the owner or operator or by any partnership or corporation that owns or controls the owner or operator directly or indirectly.

4. Records Required. An owner or operator of facilities in the public rights-of-way shall at all times maintain:

A. A full and complete set of plans, records, and “as built” maps showing the exact location of all equipment installed or in use in the City, exclusive of customer service drops.

B. A file showing its plan and timetable for construction of the facilities.

5. Voluminous Materials. If any books, records, maps or plans, or other requested documents are too voluminous, or for security reasons cannot be copied and moved, then an owner or operator of facilities in the public rights-of-way may request that the inspection take place at some other location, provided that: (i) the owner or operator must make necessary arrangements for copying documents selected by the City after review; and (ii) the owner or operator must pay all travel and additional copying expenses incurred by the City in inspecting those documents or having those documents inspected by its designee.

**140.17 BOND OR LETTER OF CREDIT.** No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain, or operate any facility upon, across, beneath, or over any public right-of-way in the City or other City property until the owner or operator shall have filed with the City a bond or letter of credit, in a form acceptable to the City, running in favor of the City, to guarantee the obligations of the owner or operator under this chapter and applicable law. The amount of the bond or letter of credit shall be no less than the reasonable cost of removal of the facilities and restoration of any affected public rights-of-way or other property pursuant to this chapter.

**140.18 INSURANCE.** Each owner and/or operator of facilities in the public right-of-way shall file with the City a certificate of insurance indicating that the said owner and/or operator carries public liability insurance in effect covering the said owner and/or operator and all agents and employees for the following minimum amounts:

1. Bodily injury - \$1,000,000 per person; \$1,000,000 per incident.
2. Property damage - \$1,000,000 per incident.

**140.19 ENFORCEMENT.**

1. Penalties. For violation of provisions of this chapter or its authorization under this chapter, penalties shall be assessable against an owner or operator and shall be chargeable to its performance bond in any amount up to the limits specified below, at the City's discretion:
  - A. For failure to supply information, reports or filings lawfully required under applicable law or agreements: \$400.00 per day for each violation for each day the violation continues.
  - B. For failure to render payments due under this chapter, any applicable agreement or applicable law: \$100.00 per day in addition to the amount of any such payment due.
  - C. For failure to file, obtain, or maintain any required performance bond or letter of credit in a timely fashion: \$50.00 per day.
  - D. For failure to restore damaged property: \$50.00 per day, in addition to the cost of the restoration and any other penalties or fees as required elsewhere herein.
  - E. For any other violations of this chapter, any applicable agreement or other applicable law: \$200.00 per day for each violation for each day the violation continues.
2. Additional Remedies. In addition to any other remedies hereunder, the City may seek an injunction to mitigate or terminate a violation, or employ any other remedy available at law or equity, including but not limited to imposition of penalties pursuant to Subsection 5 of this section.
3. Timely Performance. Any failure of the City to insist on timely performance or compliance by any person shall not constitute a waiver of the City's right to later insist on timely performance or compliance by that person or any other person.
4. Termination on Account of Certain Assignments or Appointments.
  - A. To the extent not prohibited by the United States Bankruptcy Code, an authorization under this chapter shall terminate automatically by force of law 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee (including a debtor-in-possession in a reorganization) to take over the business of the owner or operator, whether in bankruptcy or under a State law proceeding; provided, however, such authorization shall not so terminate if, within that 120-day period:
    - (1) Such assignment, receivership or trusteeship has been vacated;  
or
    - (2) Such assignee, receiver, or trustee has cured any defaults and has fully complied with the terms and conditions of this chapter and any applicable agreement and has executed an agreement, approved by any court having jurisdiction, under which it assumes and agrees to be bound by the terms and conditions of this chapter and any applicable agreement.
  - B. In the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of an owner or operator of facilities in the public rights-

of-way, its authorization under this chapter shall automatically terminate 30 calendar days after such foreclosure or sale, unless:

- (1) The City has approved a transfer to the successful bidder; and
- (2) The successful bidder has covenanted and agreed with the City to assume and be bound by the terms and conditions binding its predecessor.

C. Any mortgage, pledge or lease of facilities in the public rights-of-way shall be subject and subordinate to the rights of the City under this chapter, any applicable agreement, and other applicable law.

D. If an authorization under this chapter is terminated for any reason, the City may, at its discretion, require the franchisee or registrant to remove its facilities from the public rights-of-way and to restore the public rights-of-way to their prior condition at the owner's or operator's expense, or that of their sureties. If an owner or operator whose authorization has been terminated fails, after reasonable notice from the City, to remove its facilities from the public rights-of-way, such facilities shall be deemed abandoned and ownership forfeited to the City.

5. All remedies specified in this section are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve an operator of its obligations to comply with this chapter.

6. The owner or operator shall pay any penalty assessed in accordance with this section within 14 days after receipt of notice from the City of such penalty.

7. The City may reduce or waive any of the above-listed penalties for good cause shown.

#### **140.20 INDEMNIFICATION.**

1. An owner or operator of facilities in the public rights-of-way shall, at its sole cost and expense, indemnify, hold harmless, and defend the City, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its facilities in the public rights-of-way, or the conduct of the owner's or operator's business in the City, or in any way arising out of the owner's or operator's activities in the City's public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this chapter.

2. The indemnity provided under Subsection 1 includes, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding.

3. Recovery by the City of any amounts under insurance, the performance bond or letter of credit, or otherwise shall not limit in any way a person's duty to indemnify the City, nor shall such recovery relieve a person of its obligations pursuant to an authorization under this chapter, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have.

**140.21 TELECOMMUNICATIONS FACILITIES.** This section applies to the provision of telecommunications services for hire in the public rights-of-way but does not include such provision of cable services. This section does not apply to communications facilities owned or operated by a person for its own internal use in a business other than the provision of telecommunications services.

1. Definitions.
  - A. “Lease,” as used in this section, means an agreement between the City and a telecommunications provider or the owner or operator of communications facilities under which the provider or owner or operator is permitted to occupy space on City-owned or City-controlled public rights-of-way or supporting structure to emplace and maintain a radio frequency antenna.
  - B. “Right-of-way fee” means a payment made by an owner or operator of telecommunications facilities in the public rights-of-way pursuant to this chapter.
2. Abandonment.
  - A. On each anniversary of the effective date of a registration under this chapter, an owner or operator of a communications system shall file with the Mayor, a report under oath describing the extent of its operations in the City’s public rights-of-way under that authorization.
  - B. If any such annual report shows no revenue-producing services, no active offering of revenue-producing services, and no other use recognized by the City, the City may direct the owner or operator to show cause why such authorization shall not be deemed abandoned and terminable by the City on 30 days’ notice.
  - C. The owner or operator shall have 30 days after the City’s issuance of such an order to file a written response with the City. As part of such a response, the owner or operator may request a public hearing before the Council.
  - D. If the owner or operator requests a public hearing in a timely manner, the City shall hold such a hearing.
  - E. After the owner or operator has had an opportunity to file its written response, and after the public hearing, if any, the City may find that the authorization has been abandoned and declare it terminated.
3. Right-of-Way Fee. The owner or operator of a communications system shall pay the City an amount equal to the management costs caused by its activity in the public rights-of-way. When such management costs cannot be attributed to only one entity, the cost shall be allocated among all users of the public rights-of-way, including the City.
  - A. When a management cost of the public rights-of-way cannot be attributed to only one user, the cost shall be allocated among all users of the public rights-of-way, including the City.
  - B. The City shall notify all registrants of the amount of their right-of-way fee for a calendar quarter within 30 days after the end of that quarter. Any registrant that disputes such amount shall so notify the City in writing within ten days after receiving such notice.

C. For purposes of this chapter, “management costs” shall include without limitation:

- (1) Administrative costs, including the cost of processing permits, reviewing reports, maintaining comprehensive maps, and similar costs.
- (2) Inspection costs, including any fieldwork that may need to be done to monitor activity in the public rights-of-way.
- (3) Costs of safety precautions caused by right-of-way activity, such as police presence at a work site.
- (4) Any costs the city may incur in determining where facilities may be installed (for example, by locating or mapping facilities already in the public rights-of-way) and in resolving any conflicts or problems among right-of-way users.
- (5) Maintenance costs directly related to right-of-way activity, including repaving of streets, relocation of poles and traffic signals, and relocation of City-owned facilities in the public rights-of-way in the course of installation of new facilities.
- (6) Maintenance costs not directly related to right-of-way activity but required for right-of-way activity, such as tree trimming and snow removal.
- (7) Construction costs, including the cost of such right-of-way improvements as bridges and underpasses.
- (8) Costs imposed on the community by traffic delays, tire damage, disrupted business to abutting commercial properties, and the like, from users’ activities in the public rights-of-way.

4. Payment of Right-of-Way Fee. The owner or operator of a communications system shall pay right-of-way fees on a quarterly basis. Such payments shall be made no later than 30 days following the end of each calendar quarter.

#### **140.22 CABLE FACILITIES**

1. Applicability. This section applies to the provision of cable services for hire in the public rights-of-way but does not include such provision of telecommunications services. This section does not apply to communications facilities owned or operated by a person for its own internal use in a business other than the provision of cable services.

2. Definitions.

A. “Lease,” as used in this chapter, means an agreement between the City and a cable provider or the owner or operator of cable facilities under which the provider or owner or operator is permitted to occupy space on City-owned or City-controlled public rights-of-way or supporting structure to emplace and maintain a radio frequency antenna.

B. “Right-of-way fee” means a payment made by an owner or operator of cable in the public rights-of-way pursuant to this chapter.

3. Abandonment.
  - A. On each anniversary of the effective date of a registration under this chapter, an owner or operator of a cable facilities system shall file with the Mayor a report under oath describing the extent of its operations in the City's public rights-of-way under that authorization.
  - B. If any such annual report shows no revenue-producing services, no active offering of revenue-producing services, and no other use recognized by the City, the City may direct the owner or operator to show cause why such authorization shall not be deemed abandoned and terminable by the City on 30 days' notice.
  - C. The owner or operator shall have 30 days after the City's issuance of such an order to file a written response with the City. As part of such a response, the owner or operator may request a public hearing before the City.
  - D. If the owner or operator requests a public hearing in a timely manner, the City shall hold such a hearing.
  - E. After the owner or operator has had an opportunity to file its written response, and after the public hearing, if any, the City may find that the authorization has been abandoned and declare it terminated.
4. Right-of-Way Fee. The owner or operator of a cable system shall pay the City an amount equal to the management costs caused by its activity in the public rights-of-way. When such management costs cannot be attributed to only one entity, the cost shall be allocated among all users of the public rights-of-way, including the City.
  - A. When a management cost of the public rights-of-way cannot be attributed to only one user, the cost shall be allocated among all users of the public rights-of-way, including the City.
  - B. The City shall notify all registrants of the amount of their right-of-way fee for a calendar quarter within 30 days after the end of that quarter. Any registrant that disputes such amount shall so notify the City in writing within ten days after receiving such notice.
  - C. For purposes of this chapter, "management costs" shall include without limitation:
    - (1) Administrative costs, including the cost of processing permits, reviewing reports, maintaining comprehensive maps, and similar costs.
    - (2) Inspection costs, including any fieldwork that may need to be done to monitor activity in the public rights-of-way.
    - (3) Costs of safety precautions caused by right-of-way activity, such as police presence at a work site.
    - (4) Any costs the City may incur in determining where facilities may be installed (for example, by locating or mapping facilities already in the public rights-of-way and in resolving any conflicts or problems among right-of-way users).
    - (5) Maintenance costs directly related to right-of-way activity, including repaving of streets, relocation of poles and traffic signals, and relocation of City-owned facilities in the public rights-of-way in the

course of installation of new facilities.

(6) Maintenance costs not directly related to right-of-way activity but required for right-of-way activity, such as tree trimming and snow removal.

(7) Construction costs, including the cost of such right-of-way improvements as bridges and underpasses.

(8) Costs imposed on the community by traffic delays, tire damage, disrupted business to abutting commercial properties, and the like, from users' activities in the public rights-of-way.

5. Payment of Right-of-Way Fee. The owner or operator of a cable system shall pay right-of-way fees on a quarterly basis. Such payments shall be made no later than 30 days following the end of each calendar quarter.

### **140.23 ELECTRIC FACILITIES**

1. Applicability. This section applies to the provision of electric services for hire in the public rights-of-way but does not include such provision of telecommunications or cable services. This section does not apply to communications or cable facilities owned or operated by a person for its own internal use in a business other than the provision of cable services.

2. Definitions.

A. "Lease," as used in this chapter, means an agreement between the City and an electric provider or the owner or operator of electric facilities under which the provider or owner or operator is permitted to occupy space on City-owned or City-controlled public rights-of-way or supporting structure to emplace and maintain a radio frequency antenna.

B. "Right-of-way fee" means a payment made by an owner or operator of telecommunications facilities in the public rights-of-way pursuant to this chapter.

3. Abandonment.

A. On each anniversary of the effective date of a registration under this chapter, an owner or operator of an electric system shall file with the Mayor a report under oath describing the extent of its operations in the City's public rights-of-way under that authorization.

B. If any such annual report shows no revenue-producing services, no active offering of revenue-producing services, and no other use recognized by the City, the City may direct the owner or operator to show cause why such authorization shall not be deemed abandoned and terminable by the City on 30 days' notice.

C. The owner or operator shall have 30 days after the City's issuance of such an order to file a written response with the City. As part of such a response, the owner or operator may request a public hearing before the City.

D. If the owner or operator requests a public hearing in a timely manner, the City shall hold such a hearing.

- E. After the owner or operator has had an opportunity to file its written response, and after the public hearing, if any, the City may find that the authorization has been abandoned and declare it terminated.
4. Right-of-Way Fee. The owner or operator of a communications system shall pay the City an amount equal to the management costs caused by its activity in the public rights-of-way. When such management costs cannot be attributed to only one entity, the cost shall be allocated among all users of the public rights-of-way, including the City.
- A. When a management cost of the public rights-of-way cannot be attributed to only one user, the cost shall be allocated among all users of the public rights-of-way, including the City.
- B. The City shall notify all registrants of the amount of their right-of-way fee for a calendar quarter within 30 days after the end of that quarter. Any registrant that disputes such amount shall so notify the City in writing within ten days after receiving such notice.
- C. For purposes of this chapter, “management costs” shall include without limitation:
- (1) Administrative costs, including the cost of processing permits, reviewing reports, maintaining comprehensive maps, and similar costs.
  - (2) Inspection costs, including any fieldwork that may need to be done to monitor activity in the public rights-of-way.
  - (3) Costs of safety precautions caused by right-of-way activity, such as police presence at a work site.
  - (4) Any costs the City may incur in determining where facilities may be installed (for example, by locating or mapping facilities already in the public rights-of-way and in resolving any conflicts or problems among right-of-way users).
  - (5) Maintenance costs directly related to right-of-way activity, including repaving of streets, relocation of poles and traffic signals, and relocation of City-owned facilities in the public rights-of-way in the course of installation of new facilities.
  - (6) Maintenance costs not directly related to right-of-way activity but required for right-of-way activity, such as tree trimming and snow removal.
  - (7) Construction costs, including the cost of such right-of-way improvements as bridges and underpasses.
  - (8) Costs imposed on the community by traffic delays, tire damage, disrupted business to abutting commercial properties, and the like, from users’ activities in the public rights-of-way.
5. Payment of Right-of-Way Fee. The owner or operator of an electric system shall pay right-of-way fees on a quarterly basis. Such payments shall be made no later than 30 days following the end of each calendar quarter.



**140.24 GAS FACILITIES**

1. Applicability. This section applies to the provision of gas services for hire in the public rights-of-way but does not include such provision of telecommunications, cable or electric services. This section does not apply to gas facilities owned or operated by a person for its own internal use in a business other than the provision of gas services.
2. Definitions.
  - A. "Lease," as used in this chapter, means an agreement between the City and a gas provider or the owner or operator of gas facilities under which the provider or owner or operator is permitted to occupy space on City-owned or City-controlled public rights-of-way or supporting structure to emplace and maintain a radio frequency antenna.
  - B. "Right-of-way fee" means a payment made by an owner or operator of gas facilities in the public rights-of-way pursuant to this chapter.
3. Abandonment.
  - A. On each anniversary of the effective date of a registration under this chapter, an owner or operator of a gas system shall file with the Mayor a report under oath describing the extent of its operations in the City's public rights-of-way under that authorization.
  - B. If any such annual report shows no revenue-producing services, no active offering of revenue-producing services, and no other use recognized by the City, the City may direct the owner or operator to show cause why such authorization shall not be deemed abandoned and terminable by the City on 30 days' notice.
  - C. The owner or operator shall have 30 days after the City's issuance of such an order to file a written response with the City. As part of such a response, the owner or operator may request a public hearing before the City.
  - D. If the owner or operator requests a public hearing in a timely manner, the City shall hold such a hearing.
  - E. After the owner or operator has had an opportunity to file its written response, and after the public hearing, if any, the City may find that the authorization has been abandoned and declare it terminated.
4. Right-of-Way Fee. The owner or operator of a gas system shall pay the City an amount equal to the management costs caused by its activity in the public rights-of-way. When such management costs cannot be attributed to only one entity, the cost shall be allocated among all users of the public rights-of-way, including the City.
  - A. When a management cost of the public rights-of-way cannot be attributed to only one user, the cost shall be allocated among all users of the public rights-of-way, including the City.
  - B. The City shall notify all registrants of the amount of their right-of-way fee for a calendar quarter within 30 days after the end of that quarter. Any registrant that disputes such amount shall so notify the City in writing within ten days after receiving such notice.
  - C. For purposes of this chapter, "management costs" shall include without limitation:

- (1) Administrative costs, including the cost of processing permits, reviewing reports, maintaining comprehensive maps, and similar costs.
  - (2) Inspection costs, including any fieldwork that may need to be done to monitor activity in the public rights-of-way.
  - (3) Costs of safety precautions caused by right-of-way activity, such as police presence at a work site.
  - (4) Any costs the City may incur in determining where facilities may be installed (for example, by locating or mapping facilities already in the public rights-of-way and in resolving any conflicts or problems among right-of-way users.
  - (5) Maintenance costs directly related to right-of-way activity, including repaving of streets, relocation of poles and traffic signals, and relocation of City-owned facilities in the public rights-of-way in the course of installation of new facilities.
  - (6) Maintenance costs not directly related to right-of-way activity but required for right-of-way activity, such as tree trimming and snow removal.
  - (7) Construction costs, including the cost of such right-of-way improvements as bridges and underpasses.
  - (8) Costs imposed on the community by traffic delays, tire damage, disrupted business to abutting commercial properties, and the like, from users' activities in the public rights-of-way.
5. Payment of Right-of-Way Fee. The owner or operator of a gas system shall pay right-of-way fees on a quarterly basis. Such payments shall be made no later than 30 days following the end of each calendar quarter.

o o o o o o o o o o

## CHAPTER 145

# DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish; Municipal Infraction  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

*(Code of Iowa, Sec. 364.12[3h])*

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF WINTHROP, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

*(Code of Iowa, Sec. 364.12[3h])*

---

<sup>†</sup> **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

*(Code of Iowa, Sec. 364.12[3h])*

o o o o o o o o o o

## CHAPTER 146

# MANUFACTURED HOMES, MOBILE HOMES, AND MOBILE HOME PARKS

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

146.04 Mobile Home Parks

146.05 Mobile Home Park Requirements

146.06 Permit Issued

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

*(Code of Iowa, Sec. 435.1)*

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

*(Code of Iowa, Sec. 435.26)*

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.



2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

*(Code of Iowa, Sec. 103A.10 & 414.28)*

**146.04 MOBILE HOME PARKS.** Application for a permit to construct a mobile home park in this City shall be made in writing to the Council. Such application shall give the name and address of the applicant, legal description of the property on which such park is to be located, the number of mobile home lots desired within an engineer's sketch of the layout, water and sanitary facilities available and other information as required by the Council. Said application shall also include a list of all land owners within 400 feet of the location desired.

**146.05 MOBILE HOME PARK REQUIREMENTS.** No permit shall be issued for any mobile home park unless the following requirements are met and maintained:

1. Water Supply. An adequate and approved supply of pure water for drinking and domestic purposes shall be located so that it is within 150 feet of any section of the mobile home park.
2. Solid Waste Containers. One watertight metal receptacle of at least 10 gallons capacity shall be provided for each mobile home for the purpose of garbage and rubbish.
3. Sanitary Disposal. All mobile homes shall be required to be hooked by approved methods to the City sanitary waste disposal system.
4. Lighting, Parking and Roadways. Adequate provisions for lighting, parking and roadways shall be provided. Roadways shall be at least 20 feet wide exclusive of parking. If parking is provided upon the roadway, an additional six feet shall be provided on each side of the road where parking is permitted. Roadways shall be constructed of concrete or asphalt. At least one parking space per mobile home shall be provided.
5. Lot Area and Dimensions. Every mobile home park shall provide approved unoccupied space of at least 15 feet wider than the mobile home and a space of at least 10 feet at the rear of each mobile home exclusive of car length for each mobile home.
6. Driveways. Each mobile home shall have unobstructed access to a driveway leading to a public street or alley.
7. Rules and Regulations. All rules and regulations of the State Department of Health on mobile home park layout shall be followed.

**146.06 PERMIT ISSUED.** Upon receiving an application for permit to construct a mobile home park, the Council shall give notice in writing to all land owners within four hundred (400) feet of the proposed location of the mobile home park and shall cause to be published in a newspaper of general circulation within the City notice as given to the land owners within 400

feet stating the name of the applicant, the legal description of the land sought to be occupied and giving time and place for objections to be heard. No permit for a mobile home park shall be issued unless the occupants of all residences within 400 feet of the mobile home park as proposed endorse their consent upon the application. Measurements shall be made from that part of the mobile home park nearest the residence to that part of the residence nearest the said mobile home park. The Council shall also cause to be inspected the premises and determine whether or not such proposed mobile home park and the site selected conform with the requirements of this chapter, zoning ordinances and the laws of the State, and no permit shall be issued unless such requirements are met.

[The next page is 545]

## CHAPTER 147

# WELL PROTECTION

**147.01 Distances**

**147.02 Application**

**147.01 DISTANCES.** No structure or facility of the enumerated types set out in the following Table A shall be located within the distances set forth in said Table from public wells within the City.

**147.02 APPLICATION.** Proscriptions set forth in Table A shall apply to all public wells existing within the City, except public water wells formerly abandoned for use by resolution of the Council.

**TABLE A: SEPARATION DISTANCES**

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
<b>WASTEWATER STRUCTURES:</b>		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
<b>Sewers and Drains<sup>2</sup></b>		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes <sup>3</sup>	200	400
Other		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites <sup>4</sup>	1,000	1,000

<sup>1</sup> Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

<sup>2</sup> The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

<sup>3</sup> Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

<sup>4</sup> Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

[The next page is 553]

## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Plan

**150.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

*(Code of Iowa, Sec. 364.12[3d])*

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

*(Code of Iowa, Sec. 364.12[3d])*

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[3h])*

**150.03 BUILDING NUMBERING PLAN.** Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.



o o o o o o o o o o

## CHAPTER 151

### TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street. All trees shall be planted on private property. Any resident planting a tree on private property must first obtain a restricted residence permit. For rules, please refer to Restricted Residence District, Chapter 155, Section 155.05(1)(A) and (1)(D) of this Code of Ordinances.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner,

occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

*(Code of Iowa, Sec. 364.12[3b & h])*

[The next page is 565]

## CHAPTER 155

### RESTRICTED RESIDENCE DISTRICT

155.01 Title	155.07 Uses Requiring Special Permits to Locate Within the Restricted Residence District
155.02 Interpretation of Standards	155.08 Special Permit Provisions of the Restricted Residence District
155.03 Definitions	155.09 Amendments
155.04 District and Boundaries	155.10 Violation and Penalties
155.05 General Provisions in the Restricted Residence District	
155.06 R-1 Restricted Residence District	

**155.01 TITLE.** This chapter shall be known as the Restricted Residence District Ordinance for the City of Winthrop, Iowa.

**155.02 INTERPRETATION OF STANDARDS.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control.

**155.03 DEFINITIONS.** For the purpose of this chapter certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

1. "Accessory building or use" means a building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use. An accessory building shall be a minimum of five feet away, measured from exterior wall to exterior wall, from other buildings or structures.
2. "Building official" means the person responsible for the administration and enforcement of this chapter. The Mayor is the Building Official.
3. "Church or church school" means a building used for public worship, or connected with a building so used, or for instruction in religious beliefs, or for the conduct of activities related to church affairs.
4. "Dwelling or residence" means any building or portion thereof which is designed or used exclusively for residential purposes but not including a tent, cabin, or trailer.
5. "Dwelling, single family" means a detached residence designed for or used exclusively and occupied by one family only.
6. "Dwelling, two-family" means a residence designed for or used exclusively and occupied by two families only, with separate housekeeping and cooking facilities for each.
7. "Dwelling, multiple" means a residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

8. “Dwelling, condominiums” means a multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.
9. “Dwelling, row” means any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
10. “Dwelling, unit” means a room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
11. “Family home” means a community-based residential home which is licensed as a residential care facility licensed under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. A “family home” does not mean an individual foster care family as licensed under Chapter 237 of the *Code of Iowa*.
12. “Garage” means a structure for shelter motor vehicles or household equipment and/or effects.
13. “Home occupation” means an occupation or profession conducted entirely within an enclosed dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
14. “Home industry” means an occupation or profession conducted entirely within an enclosed accessory building that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
15. “Household” means a group of persons living together in a single dwelling unit with common access to, and common use of, all living and eating areas within the dwelling unit.
16. “Lot” means, for the purposes of this chapter, a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or private street, and may consist of: (i) A single lot of record; (ii) A portion of a lot of record; (iii) A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (iv) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.
17. “Lot, corner” means a lot abutting upon two or more streets at their intersection.
18. “Lot, depth of” means the mean horizontal distance between the front and rear lot lines.
19. “Lot, double frontage” means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
20. “Lot, interior” means a lot other than a corner lot.
21. “Lot lines” means the lines bounding a lot.

22. “Lot of record” means a lot which is a part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
23. “Lot, width” means the width of a lot measured at the building line and at right angles to its depth.
24. “Lot, reversed frontage” means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.
25. “Manufactured home” means a factory built structure, as defined in Chapter 146 of this Code of Ordinances.
26. “Mobile home” means a structure as defined in Chapter 146 of this Code of Ordinances.
27. “Mobile home park or trailer park” means any site, lot, field, or tract of land as defined in Chapter 146 of this Code of Ordinances.
28. “School” means a public or private building used for educational purposes that is regulated by the state department of public instruction as to curriculum.
29. “Stable, private” means a building or structure used or intended to be used for housing horses belonging to the owner of the property for noncommercial purposes.
30. “Stable, public and riding academy” means a building or structure used or intended to be used for the housing or riding of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.
31. “Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and nearest permitted building shall be used.
32. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building. “Front” shall be determined from the street where the address is derived.
33. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots the opposite end of lot from the front yard.
34. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

**155.04 DISTRICT AND BOUNDARIES.** The Official Restricted Residence District Map is hereby made part of this chapter and is maintained at City Hall. Said map delineates various areas of the City into the following classifications:

- |     |   |
|-----|---|
| R-1 | Restricted Residence District (regulated by this chapter)       |
| N-R | Nonresidential District ( <u>not</u> regulated by this chapter) |

For the purpose of this chapter, all restrictions described herein are applicable only in the R-1 Restricted Residence District, as is shown on the Official Restricted Residence Map. All district boundary lines shown on the Official Map correspond with property lines or street lines or center lines of right-of-way. In the case of a district boundary line which divides a property of single ownership, the City Council may make such boundary line adjustments as to place said lot of single ownership in or out of the Restricted Residence District. All land that is hereafter annexed to the City shall be automatically classified as being in an R-1 Restricted Residence District until such classification is changed by amendment of this chapter, including the Official Map, as provided herein.

#### **155.05 GENERAL PROVISIONS IN THE RESTRICTED RESIDENCE DISTRICT.**

1. Restricted Residence Permit and Certificate of Occupancy Required.
  - A. No building footprint, area, size or fence shall hereafter be altered or improved; or tree planted, unless a restricted residence permit, provided by the Building Official, considered by the City Council, and signed by the Mayor has been approved for each erection, reconstruction, or alteration. Said permit shall be applied for in writing on a properly completed application form, provided by the Building Official, that is accompanied by plans and specifications sufficient to determine compliance with the applicable ordinances of the City.
  - B. A restricted residence permit shall not be issued for buildings or fences that do not comply with this or any other ordinance of the City of Winthrop. The Building Official may revoke a permit or approval, issued under the provisions of this chapter, if a false statement or misrepresentation was made by the applicant on the application or plans on which permit approval was based.
  - C. If construction, as covered by the restricted residence permit, is not initiated within 90 days from the date of permit issuance, said permit shall be void.
  - D. The City of Winthrop shall charge a fee for said restricted residence permit. Said fee shall be \$25.00 if the size of the proposed improvement is 100 square feet or larger in size or is a fence. There is no fee if the proposed improvement is less than 100 square feet in size or is a tree.
  - E. A restricted residence permit is not needed for: constructing an unenclosed porch, deck, or outside stair; remodeling that does not increase the dimensions of the building or structure; small playhouses, tents, dog and pet houses less than 100 square feet in size; interior remodeling projects; repair of any existing structure that does not increase the size or dimension of the structure; and parking of recreational vehicles on the owner's premises and not regularly used as a dwelling unit when so parked.
  - F. No change in the use or occupancy of land, or any change in use or occupancy in an existing building, shall be made, nor shall any new building be occupied for any purpose or use until a certificate of occupancy has been issued by the Building Official. If the new occupancy complies with the provisions of this, and all other ordinances of the City, the Building Official shall issue said certificate. A certificate of occupancy shall not be issued for uses that do not comply with this or any other ordinances of the City. There shall be no fee for a certificate of occupancy.

- G. All dwellings shall have a minimum width of 19 feet.
- H. There shall be no more than one single family dwelling erected or located on the same premises.
- I. All dwellings must be placed on a permanent foundation and be attached to the real estate on which they are erected or located. All dwellings must have a foundation that meets or exceeds one of the following three criteria:
- (1) Any dwelling with a width of less than 24 feet shall have two rows of 24-inch by 24-inch by 48-inch deep concrete pads placed five feet apart. Concrete blocks, 8 inches by 16 inches, shall be placed to form a square from the pads to the frame of the dwelling.
  - (2) Any dwelling with a width of more than 24 feet shall have four rows of 24-inch by 24-inch by 48-inch deep concrete pad placed four feet apart. Concrete blocks, 8 inches by 16 inches, shall be placed to form a square from the pads to the frame of the dwelling.
  - (3) Placement on a basement.
- J. All dwellings shall have skirting that is made of materials equal to or better than the siding of the dwelling and must be approved by City Council. All dwellings shall remove wheels, tires, tongue, and any other equipment used to move the dwelling and conceal them underneath the dwelling.
- K. In the event of a natural disaster to the existing dwelling or during construction of a new dwelling, the land owner may place a temporary dwelling, not meeting the above requirements, on the property until construction is completed, or one year has expired from the date of placement of the dwelling, whichever may come first. The owner will have 30 days to remove the temporary dwelling after construction is completed, or after one year from placement has expired, whichever is less.
- L. No fence, wall, retaining wall, or unenclosed deck shall be erected closer than one foot from a lot line.
- M. No tree or shrub shall be planted closer than five feet from the lot line between adjacent property owners.
2. Nonconforming Uses and Lots in the Restricted Residence District.
- A. A lawful, or authorized, non-conforming use existing at the time of adoption of this chapter may be continued, maintained, repaired, or sold to another party. Said nonconforming use may not be enlarged, expanded or changed, nor shall it occupy more lot area than was in use on the effective date of this chapter unless the Official Restricted Residence Ordinance Map is amended or a special permit is granted.
- B. If said lawful non-conforming use, or any portion thereof, is discontinued, either voluntarily by the owner or through the sale of the property or business, for a period of one year or more, any future use of such land shall be in conformity with the provisions of the R-1 Restricted Residence District unless the Official Restricted Residence Ordinance Map is amended or a special permit is granted.
- C. Destruction of a nonconforming building or structure in the Restricted Residence District that exceeds 50 percent of the market value prior to



destruction shall not be allowed to be reconstructed in a nonconforming manner and shall comply with this chapter.

D. In any Restricted Residence District on a lot of record at the time of enactment of this chapter, a single-family dwelling may be established regardless of the size or dimension of the lot (lots of record are exempt from Section 155.06(3)(A), (3)(B), and (3)(C)), provided all other requirements of this chapter are met. However, where two or more vacant and contiguous substandard recorded lots are held in common ownership, they shall be combined into restricted residence lots and shall thereafter be maintained in common ownership and shall be so joined and developed for implementing this chapter. The razing of a building on a substandard lot shall constitute the formation of a vacant lot.

**155.06 R-1 RESTRICTED RESIDENCE DISTRICT.** The following uses are allowed in the R-1 Restricted Residence District, and the requirements for said uses shall apply in all areas of the District.

1. Principal Permitted Uses. Only one principal permitted use shall be allowed per lot, including lots of record.
  - A. One- and two-family dwellings or residences.
  - B. Churches, cathedrals, temples, and similar places of worship.
  - C. Public and parochial schools, including elementary and secondary schools.
  - D. Fire stations.
  - E. Publicly owned parks, playgrounds, golf courses, libraries, and recreation areas.
  - F. Agricultural uses, including nurseries and truck gardens; provided that no offensive odors or dust are created, and provided further, that no retail sales shall be permitted on the premises. This shall not be construed to include the operation of livestock feed lots or auctions, public stables, boarding kennels, or veterinary clinics or such similar uses.
  - G. Conversions of one-family dwellings into two-family dwellings in accordance with the lot area, frontage, height, and yard requirements of this section.
  - H. Mobile homes, mobile home parks or trailer parks established per Chapter 146 of this Code of Ordinances.
  - I. Multiple dwellings, including row dwellings consisting of not more than six units in a continuous row, cooperative apartment houses, and condominium dwellings.
  - J. Boarding and rooming houses.
  - K. Nursing, convalescent, assisted living, elder group homes, and retirement homes.
  - L. Funeral homes.
  - M. Family homes, group homes, and homes for persons with disabilities.

- N. Uses other than those permitted in this section may be erected, reconstructed, altered, or placed provided the City Council shall have approved, by special permit, the said erection, reconstruction, alteration, or placement of the use.
2. Permitted Accessory Uses.
- A. Customary home occupation as a secondary use carried on entirely within the residence not including any garage or other building or structure not designed and used for daily, human habitation and where there is no evidence of such occupation being conducted on the premises by virtue of signs, or displays, or excessive noise, odors, electrical disturbances, or traffic generation, except one sign not larger than two square feet in area, with no more than one non-resident assistant and where not more than one-half of the floor area of any one floor is devoted to such use.
- B. Accessory buildings or structures customarily used in conjunction with a dwelling or residence, including, but not limited to: a garage; a tool or utility shed; a guest or summer house; a gazebo, arbor, or trellis; or a private swimming pool properly fenced and screened. Any other building on residential property shall not be deemed an allowed accessory use if not incidental to a residential purpose, or if it is used in conjunction with or for the business of selling goods or rendering services. All accessory buildings shall be of the same paint scheme as the principal structure.
3. Lot and Building Requirements. (Minimum requirements)
- A. Lot Area:  
One-family dwelling - 8,000 square feet.  
Two-family dwelling - 8,000 square feet.  
Multiple-family or other permitted use - 10,000 square feet.
- B. Lot Area per Dwelling Unit: Row housing and condominiums - 2,500 square feet each for the first four units, plus 850 square feet per additional unit.
- C. Lot Width:  
One-family dwelling - 66 feet.  
Two-family dwelling - 66 feet.  
Row housing units - 25 feet per unit.  
Multiple-family dwelling and other permitted uses - 75 feet.
- D. Front Yard: 20 foot setback. Any lot which abuts on two or more streets shall have a 20 foot side yard between each lot line abutting on said side street and any building. On lots of record, the average setback of adjacent dwellings may be used. Schools and churches are exempt from front yard setback requirements. Accessory buildings are not allowed in front yards.
- E. Side Yards: Five foot setback for all principally permitted uses, measured from the exterior wall. Accessory buildings must be unattached and may be located in side yard a minimum setback distance of five feet from the principal building, measured from exterior wall to exterior wall. An accessory building shall have a five foot setback, measured from the exterior wall.

F. Rear Yard: Five foot setback for all principally permitted uses, measured from the exterior wall. Accessory buildings must be unattached and may be located in rear yard a minimum setback distance of five feet from the principal building, measured from exterior wall to exterior wall. An accessory building shall have a five foot setback, measured from the exterior wall.

G. Maximum Height:

Principal Building - 45 feet, measured from the final grade to the highest point of a wall.

Accessory Building - 10 feet, measured from the final grade to highest point of a wall and 20 feet, measured from the final grade to highest point on a roof.

H. Maximum Number of Stories:

Principal Building – four stories.

Accessory Building - one story.

I. Maximum Building Coverage: The sum of the dwelling and all accessory buildings square footage, located on any one lot, shall not exceed 50 percent of the lot's total square footage.

J. Dwelling Unit – Minimum Square Footage: All dwelling units must contain full walls separating it from the remaining structure and must be a minimum of: single story – 1,000 square feet, two story – 1,400 square feet. Excludes: porches, porticoes and entryways in square footage calculation.

**155.07 USES REQUIRING SPECIAL PERMITS TO LOCATE WITHIN THE RESTRICTED RESIDENCE DISTRICT.** Construction of clinics, offices, hospitals, home industry, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the Restricted Residence District only if it appears that said use and type of building will be compatible with the residential character of the district, and that the particular use could not practicably be built in an unrestricted area, or the restricted district boundaries on the Official Map could not be amended logically, for proper reasons acceptable to Council.

**155.08 SPECIAL PERMIT PROVISIONS OF THE RESTRICTED RESIDENCE DISTRICT.**

1. With the exception of the principal and accessory uses stated in this chapter, a written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City. This includes any proposed waiver or exception to this chapter. Said permit shall be applied for in writing on a properly completed application form provided by the Building Official that is accompanied by plans and specifications sufficient to determine compliance with applicable ordinances of the City. Said application shall be made to the Building Official at least 21 days before the City Council meeting at which the request for Council action is made.

2. No permit shall or will be granted until a public hearing has been conducted by the City Council at a regularly scheduled meeting. Notice of the public hearing shall be placed in a publication of general circulation at least seven days, but not more than

20 days, prior to the hearing. As a courtesy, to the best ability of the City and applicant, and in addition to publication, the notice of hearing will be mailed via regular mail to property owners, within the City, that have lots contiguous, exclusive of street, to the property in question. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. Notice to property owners shall be mailed at least seven days, but not more than 20 days, prior to hearing. The applicant shall be responsible for providing a list of the names and addresses of the property owners that are to receive said courtesy notice, together with addressed envelopes with pre-paid First-Class postage thereon to the Building Official who shall then mail the notices to the property owners.

3. After a public hearing is conducted, but prior to consideration of a special permit, the City Council shall weigh the application using the following special permit standards. The City Council shall find that:

A. The establishment, maintenance, or operation of the special permit will not be detrimental to, or endanger, the public health, safety, or general welfare of the City;

B. The special permit will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish or impair property values of the neighborhood;

C. The establishment of special permits will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

D. Adequate utilities and public services (e.g. police and fire protection, sewer and water service), access roads, drainage and/or necessary facilities have been, can be, or are being provided;

E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

F. The special permit shall, in all other respects, conform to the applicable regulations and ordinances of the City; and

G. A properly noticed public hearing, as outlined in this section, was conducted by the City Council prior to special permit consideration.

4. After a public hearing is conducted and consideration has been given to the above standards, the City Council shall act on the special permit application. The Council may either approve, deny, or table a special permit application by simple majority roll call vote unless 20 percent of the surrounding property owners who received notice object to the special permit application, in which case the City Council shall be bound by different voting requirements in that granting a special permit shall then require an affirmative three-fourths vote of all the members of the City Council.

5. Each special permit application shall be accompanied by a non-refundable fee payable to the City or a cash payment in the amount of \$50.00 to cover processing costs.

**155.09 AMENDMENTS.** From time to time the City Council may wish to amend, change, or alter provisions of this chapter and/or the Official Restricted Residence Map, which is part of this chapter.

1. No amendment, change, or alteration shall be approved by the City Council until after a properly noticed public hearing has been conducted by the Council at a

regularly scheduled meeting. Notice of the public hearing shall be placed in a publication of general circulation in the city at least seven days, but not more than 20 days, prior to the hearing.

2. In addition to a hearing, when the City Council is considering an amendment to the Official Restricted Residence District Map, they shall provide, as a courtesy, as well as in addition to publication, the notice of hearing via regular mail to property owners within the City, that have lots contiguous, exclusive of street, to the property in question. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. Notice to property owners shall be mailed at least seven days, but not more than 20 days, prior to hearing. The applicant shall be responsible for providing a list of the names and addresses of the property owners, who are to receive said courtesy notice, together with addressed envelopes with pre-paid First-Class postage thereon to the Building Official who shall then mail the notices to the property owners.

3. Upon adoption, publication, and recordation of the amendment by the City, such amendments, changes, or alterations shall become effective.

**155.10 VIOLATION AND PENALTIES.** Any building or structure erected, altered, repaired, or used in violation of this chapter, passed by the City Council, shall be deemed a nuisance, and the City Council may provide for the abatement of such nuisance through the procedures outlined in Chapter 3 of this Code of Ordinances.

## CHAPTER 156

# ANHYDROUS AMMONIA STORAGE

### 156.01 Purpose

### 156.02 Anhydrous Ammonia Storage Prohibited

### 156.03 Temporary Application Storage Limited

**156.01 PURPOSE.** The purpose of this chapter is to protect and preserve the public safety and well-being by regulating the storage of anhydrous ammonium within the City limits.

**156.02 ANHYDROUS AMMONIA STORAGE PROHIBITED.** It is unlawful to store anhydrous ammonia that is being held for sale, or incidental to sale, within the City limits, whether in permanent storage facilities, temporary storage facilities, semi-trailer tank storage, or mobile tanks.

**156.03 TEMPORARY APPLICATION STORAGE LIMITED.** Anhydrous ammonia storage on farm land within the City limits, for application on farm land within the City limits, is limited to no longer than 24 hours. Storage of anhydrous ammonia within the City limits for application outside the City limits shall be unlawful.

[The next page is 601]

## CHAPTER 160

# SUBDIVISION REGULATIONS

160.01 Purpose	160.17 Temporary Erosion Control Devices
160.02 Definitions	160.18 Statewide Urban Design and Specifications (SUDAS) Standards
160.03 General Provisions	160.19 Preliminary Plat Requirements and Procedures (Major Subdivision)
160.04 Subdivision Design Standards	160.20 Final Plat Requirements and Procedures (Major Subdivision)
160.05 Land Suitability	160.21 Minor Subdivision Requirements and Procedures
160.06 Streets	160.22 Property Line Adjustments
160.07 Blocks	160.23 Places
160.08 Lots	160.24 Issuance of Building Permits and Occupancy Permits
160.09 Streets and Roads	160.25 Vacation of Plats, Streets, and Other Public Lands
160.10 Utility Service Systems	160.26 Fees
160.11 Utility Locations	160.27 Waivers and Exceptions
160.12 Storm Drainage	160.28 Enforcement
160.13 Street Signs and Traffic Control Devices	160.29 Changes and Amendments
160.14 Mailboxes, Including Newspaper Boxes	
160.15 Parking	
160.16 Street Lighting	

**160.01 PURPOSE.** This chapter is adopted for the following purposes:

1. To provide procedures and guidance for the review and consideration of all new subdivisions, resubdivision, or dedications in the incorporated areas of the City as well as a formal review procedure for subdivisions proposed in the unincorporated area in the two-mile area around the corporate limits of the City; †
2. To implement the City's Comprehensive Plan, prescribing minimum standards for the design layout and development thereof; providing for the preliminary and final approval or disapproval thereof;
3. To provide for the enforcement and penalties for the violation of this chapter;
4. To promote the adequacy, safety, and efficiency of the street and road system;
5. To improve the health, safety, and general welfare of the citizens; and
6. To repeal all other ordinances or resolutions in conflict herewith.

This chapter is permitted and specifically authorized in Chapter 354 of the *Code of Iowa*.

**160.02 DEFINITIONS.** For the purpose of this chapter, certain words and terms are hereby defined. The following terms are intended to be consistent with Chapter 354 of the *Code of Iowa*.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as a result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fraction parts one-half, one-quarter, one-half of

---

† **EDITOR'S NOTE:** Please refer to Appendix, Pages 15-19, for Guidelines for Subdivision Platting and process checklists.



one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

3. "Alley or lane" means a public or private way, not more than 30 feet wide in right-of-way and twenty 20 feet in roadway, affording generally secondary means of access to abutting property and not intended for general traffic circulation.

4. "Arterial street" means the arterial serves the major center of activities of urbanized areas, the highest traffic volume corridors, the longest trip, and carries a high proportion of a total urban travel on a minimum of mileage. US Highway 20 is classified as an arterial street.

5. "Auditor's plat" means a subdivision plat required by either the County Auditor or the County Assessor, prepared by a surveyor under the direction of the County Auditor.

6. "Block" means an area of land within a subdivision that is entirely bounded by streets, highways, or the exterior boundary or boundaries of the subdivision, except alleys.

7. "Building line" means building lines that shall be shown on all lots whether intended for residential, commercial, or industrial use. Such building lines shall not be less than required by Chapter 155 of this Code of Ordinances.

8. "Collector street" means the street system that provides both land access and traffic circulation within residential neighborhoods and commercial and industrial areas. The collector street also collects traffic from local streets in residential neighborhoods and channels it into the arterial system. In the central business district, and in other areas of similar development and traffic density, the collector system may include the entire street grid. Examples of existing collector streets include First Street and 220<sup>th</sup> Street.

9. "Conveyance" means an instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.

10. "Cul-de-sac" means a street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

11. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

12. "Developer"- see the definition of "proprietor."

13. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purposes of this chapter.

14. "Driveway" means a private property access to either: a private or public street, road, alley, highway, or freeway.

15. "Easement" means a grant, by the proprietor, for a specific purpose of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the proprietor shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easements which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees that interfere with the use of such easements.

16. “Engineer” means an engineer who is a registered civil engineer authorized and licensed to practice engineering in the State of Iowa.
17. “Final plat” means the final map or plan of record of a subdivision, and any accompanying material, as described in Section 160.20 .
18. “Improvements” means the addition of any facility or construction on land necessary to prepare land for building sites including road paving, drainageways, sewers, water mains, wells, and other works and appurtenances.
19. “Lot” means, for the purpose of this chapter, a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Said lot shall have frontage on or access to a public street or private street and may consist of: (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; or (iv) a parcel of land described by meets and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code of Ordinances.
20. “Major subdivision” means all subdivisions not classified as minor subdivisions, including, but not limited to, any size subdivision requiring any new public or private street, extension of local government facilities, to the creation of any public improvements.
21. “Metes and bounds” means the method used to describe a tract of land that uses distance and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to survey monuments or physical features of the land.
22. “Minor plat” means a plat replacing a preliminary and final subdivision plat in the case of minor subdivisions to enable the proprietor to save time and expense in reaching a general agreement as to the form of the plat and the objectives of Section 160.21.
23. “Minor subdivision” means any subdivision that creates not more than three parcels fronting an existing road, not involving any new road or street or the extension of municipal facilities or the creation of any improvements or the dedication of lands to the City, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision of the Comprehensive Plan, Chapter 155 of this Code of Ordinances, or this chapter may be classified as a minor subdivision and must meet the appropriate provisions of this chapter.
24. “Nonresidential subdivision” means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of this chapter.
25. “Official plat” means either an Auditor’s plat or a major or minor subdivision plat that meets the requirements of the *Code of Iowa* and has been filed for record in the offices of the County Recorder, County Auditor, and County Assessor.
26. “Outlot” means a portion of a subdivision or other parcel or tract intended as a unit for the proposed, whether immediate or future, transfer of ownership. An outlot shall be an unbuildable lot, in and of itself. Typically, a proprietor may use an outlot for the following reasons: (i) to reserve a portion of a final plat for future development or sale; (ii) to reserve a portion of a final plat for construction of and future dedication

of a detention basin to the City or private association; or (iii) for construction of a private street or access that will be owned and maintained by a private association.

27. “Parcel” means a part of a tract of land.

28. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.

29. “Plat of survey” means the geographical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

30. “Preliminary plat” means the proposed map or plan of record of a subdivision and any accompanying material, as described in Section 160.19.

31. “Property line adjustment” means a subdivision of one or more lots or parcels that meets the following criteria: (i) no additional lots or parcels shall be created, and; (ii) no part of the divided lot or parcel will be transferred to anyone but the owner or owners of a lot or parcel of land abutting that part of the divided lot or parcel of land to be transferred, and; (iii) no adjusted lot or parcel shall conflict with Chapter 155 of this Code of Ordinances or this chapter.

32. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest. This definition shall also include a person or persons designated to act on behalf of a proprietor.

33. “Resubdivision” means a change on a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use or at any lot line, or if such a change affects any map or plan legally recorded prior to the effective date of this chapter.

34. “Right-of-way” means the land area the right to possession of which is secured or reserved by the contracting authority for road purposes.

35. “Service or local streets” means streets that allow direct access to abutting land and connections to the higher order street systems. They offer the lowest level of mobility and deliberately discourage major through traffic movements. All streets, except US Highway 20, First Street, and 220<sup>th</sup> Street, are classified as service or local streets.

36. “Street line” means a dividing line between a lot, tract or parcel of land and a contiguous street.

37. “Street, road, drive, alley, or entrance (private)” means all property intended for use by vehicular traffic, but not dedicated to the public, nor controlled and maintained by a political subdivision.

38. “Street, road, alley, drive or entrance (public system)” means all property intended for use by vehicular traffic which has been dedicated to the public or deeded to a political subdivision.

39. “Subdivision” means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcel, sites, units, plots, or interests for the purpose of sale, including a sale on contract or the making of a gift, or lease, or development, including resubdivision. ‘Subdivision’ includes the division or development of residential or nonresidential zoned land, whether by deed, sale on contract, devise, intestate succession, lease, map, plat, or another recorded instrument.

40. “SUDAS” refers to the standards, specifications, and design manual of Iowa’s Statewide Urban Design and Specifications for public improvements.
41. “Surveyor” means a registered land surveyor authorized and licensed to practice surveying in the State of Iowa, pursuant to Chapters 355 and 542B of the *Code of Iowa*.
42. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.
43. “Zoning Administrator” means the administrative officer designated or appointed by the City Council to administer and enforce the regulations contained in this chapter.

### **160.03 GENERAL PROVISIONS.**

1. Application. This chapter shall apply to all plats, replats, and divisions of land into parcels lying in the incorporated area of Winthrop, Iowa, as well as the subdivision of land within Buchanan County that is within two miles of the City’s corporate boundaries, as may be outlined by Section 28E of the *Code of Iowa*. The provisions of this chapter shall apply to the division of any lot or parcel of land entered of record in the office of the County Recorder as a single lot or parcel on or after the effective date of this chapter.
2. Plats within Two Miles of the City. In accordance with the provisions of Section 354.9 of the *Code of Iowa*, as amended, a proprietor or other agent shall file a copy of all preliminary and final subdivision plats, including minor plats, for the unincorporated areas within Buchanan County that are within two miles of the City. The City may review and comment on the proposed subdivision. The City may approve, disapprove, or waive their right to review all plats within the extraterritorial area defined herein. The plat shall be filed with the City prior to or at the same time as filing with the County. Approval by one political entity does not automatically constitute approval by the others unless the political entities have so agreed.
3. Subdivision Classification. Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision by the Zoning Administrator. To aid in this, the proprietor shall submit in written or other appropriate documentation the principle features of access, relationship and location of existing roads, proposed water and sanitary sewer systems, public utilities and improvements, the number and location of the proposed lots and other pertinent data or information. Any subdivision may be classified as a major subdivision at the proprietor’s request.
4. Zoning: Any property proposed for subdivision shall be correctly zoned to accommodate the planned use before the subdivision process is begun.
5. Review by Agencies: Copies of all plats shall be submitted to the Zoning Administrator, City Engineer, and Public Works Director. Each of the aforementioned offices shall examine the plat as to its compliance with the ordinances and regulations of the City, as well as Buchanan County and the State of Iowa, and submit their findings to the Zoning Administrator as soon as is possible, but within 10 days of receipt of their copy. Once a plat is approved by the previously listed positions, it shall then be submitted to the City Council for review and consideration. Approval from the City Council must be obtained prior to recording.

**160.04 SUBDIVISION DESIGN STANDARDS.** The standards and details of design herein contained are intended only as the minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the plat, the proprietor should use standards consistent with the site conditions so as to assure an economical, pleasant and desirable neighborhood, and shall conform to design standards as approved by the City Council.

**160.05 LAND SUITABILITY.** No land shall be subdivided for residential purposes that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other features likely to be harmful to the health, safety or general welfare unless such suitable conditions are corrected to the satisfaction of the City.

1. If a subdivision is found to be unsuitable for any of the reasons cited in this section the City Council shall state its reasons in writing and afford the proprietor an opportunity to present data regarding such unsuitability. Thereafter, the City Council may re-affirm, modify or withdraw its determination of unsuitability.

2. All lots located within a floodplain shall contain adequate area above the elevation of flooding for essential and planned installations. All land in a subdivision that lies in a floodplain shall be shown on the individual lots in the preliminary plat, and encouraged to remain as open space for use by all proprietors of lots in the subdivision with an appropriate instrument providing for its care by such proprietors. Subdivisions (including mobile home parks) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards.

**160.06 STREETS.**

1. Private Streets. Private streets, not dedicated to and accepted by the City, proposed after the effective date of this chapter are discouraged. If private streets are utilized, they shall be built to public standards, and they shall be platted as such and be under the control of the subdivision, homeowners' association, and/or proprietor.

2. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width to those defined in Section 160.06(14) and in similar alignment, unless waivers or exceptions are approved by the City Council.

3. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the City Council. In a case where a street will eventually be extended beyond the plan, but is temporarily dead-ended, an interim turnaround shall be required.

4. Street Intersection. Street intersections shall be as near to 90 degree angles as possible. There shall be a minimum of 150 feet offset between centerlines of intersecting streets.

5. Cul-de-sac. If a cul-de-sac is permitted, such street shall be no longer than 500 feet and shall be provided at the closed end with a turnaround having a street property line radius of at least 50 feet and a roadway radius of 40 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be equal or greater to those defined in Section 160.06(14). The property line at the

intersection of the turnaround and the lead-in portion of the street shall be rounded at the radius of not less than 30 feet. A paved cul-de-sac with concrete curb and gutter shall have a minimum paved diameter of 100 feet measured from the back of the curb to back of curb.

6. Street Names. All newly platted streets shall be named in a manner consistent with the present street name system. A proposed street that is obviously in alignment with other existing streets, or with a street that may be logically extended through the various portions shall bear the same name. New street names shall be subject to approval by the City Council so as to avoid duplication or similarity of names.

7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded area, and other natural features which would lend themselves to attractive treatment.

8. Half Streets. Dedication of half streets will be prohibited unless there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if approved by the City Council.

9. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.

10. Easements.

A. Structures, landscaping, and fencing are not to be constructed or placed on an easement.

B. Easements for utilities, when necessary, shall be provided along rear or side lot lines or along alleys. The width of such easement shall be not less than 10 feet in total width. In the event that there exists an easement in an adjacent subdivision, the 10 foot requirement may be reduced to five feet to allow for a minimum of 10 feet total easement.

C. Whenever a subdivision is traversed by a waterway, channel, drainageway, stream, sanitary sewer, or storm water drainage structure, a storm water easement or drainage easement may be required. The width of such easement shall be adequate for the anticipated drainage but not less than 20 feet and shall be shown on the plat.

D. Any lot that has no frontage upon a public or private street shall be provided with an easement for access to a public or private street. The width of such easement shall not be less than 30 feet.

E. Easements to the City for street purposes shall not be allowed.

11. Neighborhood Plan. If any overall plan has been approved by the City for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

12. Unsubdivided Portion of Plat. Where the plat is to be submitted includes only part of the tract owned by the proprietor, the City Council may require a sketch of the prospective future system of the unsubmitted part. The street system of the part submitted shall be correlated with the street system of the part not submitted.

13. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, limited accessway, freeway, or parkway, the street layout shall provide motor access to such frontage by one of the following means:

- A. Be so arranged as to permit, where necessary, future grade separations at highway crossings.
- B. Border the highway with a parallel street at a sufficient distance from it to permit deep lots to go back onto the highway; or form a buffer strip for park, commercial, or industrial use.

14. Street, Right-of-Way Width, and Roadway Widths. The table below provides the minimum right-of-way and roadway widths for the various types of street classifications.

Type of Street	Minimum Right-of-Way Width	Minimum Roadway Width
Arterial	80 Feet	44 Feet
Collector	66 Feet	36 Feet
Service	66 Feet	26 Feet

15. Street Alignments. Streets and alleys shall be completed to grades that have been officially determined or approved by the City Council. All streets shall be graded to within two feet of the right-of-way and adjacent sides slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent for arterial streets, eight percent for collector streets, or 10 percent for service streets. The minimum grade for any street shall not be less than one-half of one percent. A minimum centerline radius of 150 feet shall be required of all streets. All street alignments, both horizontally and vertically, shall meet design criteria as specified in the SUDAS Design Manual.

**160.07 BLOCKS.**

- 1. No block containing arterial or collector streets shall be longer than 1,000 feet. Blocks containing service streets shall not be longer than 2,000 feet, but not less than 330 feet.
- 2. At street intersections, block corners shall be rounded with a radius of not less than 20 feet for service streets and 25 feet for collector and arterial streets. However, where a curve radius has been previously established, such radius shall be used as standard if greater than 25 feet.

**160.08 LOTS.**

- 1. Corner lots shall have a minimum width that will permit required building setbacks on both front and side streets.
- 2. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway.
- 3. Minimum lot sizes and dimensions, as defined in Chapter 155 of this Code of Ordinances, shall be met.
- 4. Side lot lines shall be approximately at 90 degree angles to the street or radial to curved streets. On large size lots and except when indicated by topography, lot lines shall be straight.

5. All outlots shall be noted as unbuildable on plats.

**160.09 STREETS AND ROADS.** Unless otherwise stated in this chapter, all improvement costs shall be borne by the developer. In addition to Section 160.06, all streets or roads intended to be dedicated to public use and accepted into the City street system shall meet the following criteria:

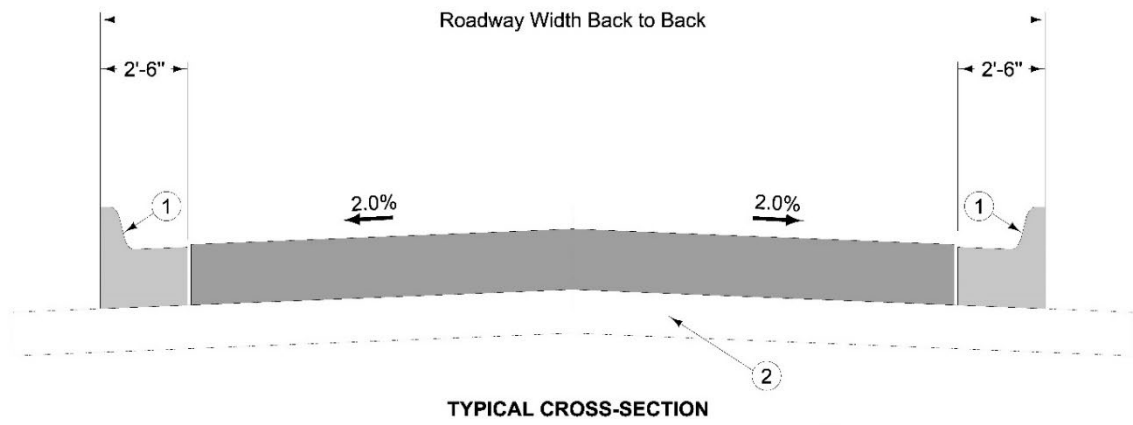
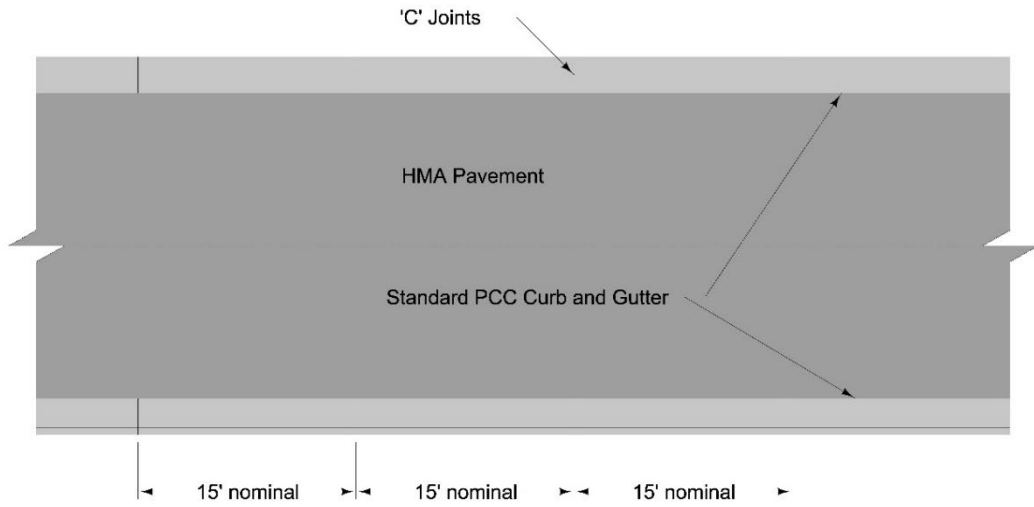
1. All streets shall be built to grade and standard cross-section according to the plans approved by the City Engineer and City Council prior to construction. An urban cross-section shall be used, as shown in Figure 1. Both plan and profile view details shall be drawn on 11-inch by 17-inch sheets to a scale of one-inch equals 50 feet horizontal and one-inch equals five feet vertical.
2. All streets shall be paved with Portland Cement Concrete (PCC) or Hot Mix Asphalt (HMA) and have Portland Cement Concrete (PCC) curb and gutter. (See Figure 1).
3. All PCC or HMA streets shall be paved in accordance with specifications approved by the City Council and City Engineer. Proposed PCC streets shall be constructed according to the Statewide Urban Design and Specifications (SUDAS) Standards. Proposed HMA streets shall be constructed according to the following table.

Type of Street	Minimum Street Base Type and Thickness	Minimum Base Course Thickness	Minimum Surface Course Thickness
Arterial	8 inches of rock	2 (2-inch) layers of asphalt	2 inches of asphalt
Collector	8 inches of rock	2 inches of asphalt	1½ inches of asphalt
Service	8 inches of rock	2 inches of asphalt	1½ inches of asphalt

4. All construction and materials shall conform to the current SUDAS standards.
5. 5. A 48-hour advance notice of construction is required.
6. 6. All designs, specifications, material, inspection results, and procedures shall be certified to the City Engineer by a licensed engineer. All roads to be dedicated to the City may be inspected by the City, with the cost of said inspection being reimbursed to the City.



**Figure 1. Typical Street Plan and Cross Section**



- ① 6 inch standard curb and gutter.
- ② Subbase or subgrade as specified.

**160.10 UTILITY SERVICE SYSTEMS.**

1. Public sanitary sewers and water systems shall be installed within the street or right-of-way or established easements as required by the State and local ordinances.
2. Gas mains shall be installed within the street right-of-way or an established easement.
3. Electric and telephone lines shall be installed within the street right-of-way or established easements.
4. All subdivisions, and their lots, that are located within the incorporated boundaries of the City shall be required to connect to municipal utilities.
5. All utility service systems shall be subject to approval by the City Engineer and City Council.

**160.11 UTILITY LOCATIONS.**

1. The proposed location, alignment, and sizes of all existing public utilities shall be shown on the preliminary plat. All utilities shall be located underground, unless waived by the Commission. Approval of the preliminary plat will form the basis of final designs of all improvements.
2. All underground utilities that will be located within the street right-of-way or established easement shall be constructed, and service provided to each lot, before acceptance of the improvements by the City.

**160.12 STORM DRAINAGE.**

1. Adequate storm sewers and inlets shall be provided where necessary. All storm water intakes shall be capable of handling a five-year storm, and the pipe shall be capable of handling a 10-year storm. In addition, the subdivision shall have 100-year overland conveyance capacity. All rainfall information shall be in accordance with current SUDAS standards.
2. All storm water improvements shall be constructed or installed in accordance with specifications approved by the City Council and City Engineer.
3. Natural waterways shall be maintained and protected.
4. All storm water facilities shall be subject to approval by the City Engineer and City Council.
5. If the development covers an area of one or more acres, the applicant must have the necessary Iowa Department of Natural Resources permit.

**160.13 STREET SIGNS AND TRAFFIC CONTROL DEVICES.** To insure uniformity with the City's street signage system, all street name signs and traffic control signs shall be erected in conformance with the Manual of Uniform Traffic Control Devices (MUTCD) and the Buchanan County E-911 requirements. The City will be responsible for all costs associated with sign erection and maintenance.

**160.14 MAILBOXES, INCLUDING NEWSPAPER BOXES.** Mailboxes and mailbox construction shall conform to United States Postal Service standards.

**160.15 PARKING.** The depth and width of properties reserved and designed for residential, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as may be established in Chapter 155 of this Code of Ordinances.

**160.16 STREET LIGHTING.** Street lighting shall be the responsibility of the City, unless more decorative or ornamental lighting systems, beyond the City standards, are desired by the proprietor.

**160.17 TEMPORARY EROSION CONTROL DEVICES.** All subdivisions covered by this chapter shall be required to have temporary erosion control measures installed throughout the duration of construction.

**160.18 STATEWIDE URBAN DESIGN AND SPECIFICATIONS (SUDAS) STANDARDS.** If not specified in this chapter, SUDAS Standards shall be used in new subdivisions.

**160.19 PRELIMINARY PLAT REQUIREMENTS AND PROCEDURES (MAJOR SUBDIVISION).<sup>†</sup>**

1. Pre-Preliminary Plan. Each proprietor of land is encouraged to confer with the Zoning Administrator, City Engineer, and Public Works Director before preparing the preliminary plat in order to become familiar with City regulations affecting the territory in which the proposed subdivision lies. A pre-preliminary plat may be presented at that time.
2. Number of Copies. Whenever the proprietor of any tract or parcel of land within the incorporated area of the City wishes to subdivide or plat the same, the proprietor shall cause to be prepared a preliminary plat of said subdivision, and shall submit 10 copies of said preliminary plat and supportive information, two of which shall be full-size and provided according to Subsection 4(B) of this section and the remaining copies may be reduced in size and/or electronic versions, to the Zoning Administrator for preliminary study and approval. The preliminary plat shall be submitted to the Zoning Administrator a minimum of 21 days prior to City Council consideration.
3. Referral of Preliminary Plat. The Developer shall submit copies of all preliminary plat to the Zoning Administrator, City Engineer, Public Works Director, and City Attorney. Each of the aforementioned offices shall examine the plat as to its compliance with the ordinances and regulations of the City, as well as Buchanan County and the State of Iowa, and submit their findings to the Zoning Administrator as soon as is possible, but within 10 days of receipt of their copy. Once the preliminary plat is approved by the previously listed positions, it shall then be submitted to the City Council who shall consider the submitted preliminary plat.
4. Contents of Preliminary Plat. Preliminary plats shall contain, include, or show the following requirements.
  - A. Name of subdivision, date, an arrow indicating the northern direction, and the legal description of the property being platted.

---

<sup>†</sup> **EDITOR'S NOTE:** Please refer to Appendix Page 18 for Preliminary Plat checklist.

- B. Plats shall be drawn in sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references.
- C. Name and address of the proprietor, if different than the owner.
- D. Name and address of proprietor's engineer or surveyor.
- E. Existing buildings, railroads, utilities, and other rights-of-way.
- F. Location, names and widths of all existing and proposed roads, alleys, streets, and highways in or adjoining the area being subdivided.
- G. Location and names of adjoining subdivisions as well as a list of proprietors within 200 feet of the property to be subdivided.
- H. Proposed lot lines with approximate dimensions and the square foot area of each lot.
- I. Areas dedicated for public use, such as schools, parks, playgrounds, recreational trails, or greenspace. The City's objective is to develop and maintain a functioning park and recreational system that is geographically distributed throughout the community and where a minimum City-wide ratio of at least two acres of open space per 1,000 residents is maintained.
- J. Contour lines shown at intervals of two feet.
- K. Building setback lines.
- L. Boundaries of the proposed subdivision shall be indicated by a heavy black line.
- M. Existing zoning of the proposed subdivision, as well as the existing zoning of the adjoining property or properties.
- N. Proposed utility service:
- (1) Source of water supply.
  - (2) Provision for sewage disposal, storm water drainage, and flood control, if applicable.
- O. A vicinity sketch at a legible scale showing the relationship of the Plat to its general surroundings.
- P. Lots shall be numbered in a way that is acceptable to the County Auditor's office.
- Q. Existing and proposed easements showing widths and purposes of said easements.
- R. If applicable, the regulatory flood elevation data limits of the 100-year floodplain (one percent chance of annual flooding) boundaries, original and revised, must be shown.
- S. Environmental studies may be required if a proposed subdivision is located in, or near, an environmentally sensitive area.

5. Accompanying Material. The proprietor shall also submit engineering documents regarding installation of the improvements with the preliminary plat.
6. Action by the City Council.
  - A. The City Council shall take action upon the preliminary plat not more than 60 days after the initial receipt by the Zoning Administrator. Upon receipt of the preliminary plat and the required documents, the City Council will consider the recommendations from the reviewing offices. The Zoning Administrator may schedule a public hearing on the subdivision request with the City Council, legal notice for which shall be published not less than seven days, nor more than 20 days prior to the hearing. The Council may certify its approval or disapproval of the preliminary plat. If the preliminary plat is disapproved, the Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within 20 days, the failure of the Council to issue approval of the preliminary plat as provided in this chapter. If approved, the preliminary plat shall be certified by resolution.
  - B. The approval of the preliminary plat by the City Council does not constitute acceptance of the subdivision, but shall authorize the proprietor to proceed with the preparation of the final plat.
  - C. Also, approval of the preliminary plat authorizes the installation and dedication of infrastructure improvements, per the engineering documents approved with the preliminary plat.
  - D. The approval of a preliminary plat by the City Council shall be valid for a period of one year from the date of such approval, except upon application for and approval of an extension of such period of validity, by the City Council. After one or more lots have been final platted, the preliminary plat is valid until such time that it is replaced by another preliminary plat.
7. Improvements.
  - A. All standards and improvements described in Section 160.04 shall be installed at the cost of the developer, unless otherwise stated in this chapter, in accordance with the approved plans and specifications before acceptance of the final plat by the City Council. The Council, through Section 160.27, may consider increasing the size or capacity of improvements, the cost of said size or capacity increase would be borne by the City. All improvements shall be inspected by the proprietor's engineer and may also be inspected by the City Engineer. The proprietor's engineer shall certify to the City Council that the improvements were constructed in compliance with these regulations, as well as provide as-built drawings thereof. If inspected by the City Engineer, the cost of said inspection shall be borne by the developer.
  - B. Subdivisions may be developed in phases.
  - C. Before acceptance of the improvements by the City Council for any major subdivision, the proprietor shall enter into an agreement with the City Council to ensure the completion of the improvements within a specified time period. The agreement shall specify the improvements to be constructed, the schedule for completion of the construction (each phase not to exceed three years) and shall be accompanied with a performance bond, corporate surety

bond, cash, or other surety approved by the City Attorney in an amount equal to 100 percent of the estimated cost of said improvements.

D. The proprietor of the land being platted shall be required to provide to the City property maintenance bonds, or other means satisfactory to the City Engineer and City Attorney, so as to ensure that for a period of two years from the date of acceptance and completion of any improvement, the proprietor shall be responsible for maintaining the improvements in good repair.

#### **160.20 FINAL PLAT REQUIREMENTS AND PROCEDURES (MAJOR SUBDIVISION).†**

1. **Number of Copies.** After installation, dedication, and acceptance of the improvements approved as part of the Preliminary Plat, but within one year of approval of the preliminary plat, or extension thereto by the City Council, the proprietor shall submit 10 copies of the final plat, two of which shall be full-size and provided according to Subsection 3(B) of this section and the remaining copies may be reduced in size and/or electronic versions for review by the Zoning Administrator. Final plat review shall not begin until, or unless, all copies of the final plat and accompanying material have been submitted to the Zoning Administrator a minimum of 21 days prior to City Council consideration.

2. **Referral of Final Plat.** The Developer shall submit copies of all final plat to the Zoning Administrator, City Engineer, Public Works Director, and City Attorney. Each of the aforementioned offices shall examine the plat as to its compliance with the ordinances and regulations of the City, as well as Buchanan County and the State of Iowa, and submit their findings to the Zoning Administrator as soon as is possible, but within 10 days of receipt of their copy. Once the final plat is approved by the previously listed positions, it shall then be submitted to the City Council who shall consider the submitted final plat. Approval from the City Council must be obtained prior to recording.

3. **Contents of Final Plat.** Final plats shall contain, include, or show the following requirements:

A. Name of subdivision and proprietor.

B. Plats shall be drawn on sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references.

C. An arrow indicating the northern direction.

D. Curve data including delta angle, length of arc, degree of curve, and length and direction of the chord.

E. Boundary lines of subdivided area with accurate distances, bearings, and boundary angles. The unadjusted error of closure shall not be greater than one in 10,000 for subdivision boundaries and shall not be greater than one in 5,000 for an individual lot. The areas of irregular lots within the plat shall be

---

† **EDITOR'S NOTE:** Please refer to Appendix Page 19 for Final Plat checklist.

shown and may be expressed in either acres to the nearest one-hundredth acre, or square feet to the nearest 10 square feet.

F. Exact name, location, width, and designation of all streets within the subdivision. Additionally, alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and have the proposed use clearly designated.

G. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage or access easements as are deemed necessary for the orderly development of the land encompassed within the plat. All such easements relative to their usage and maintenance shall be approved by the City Council prior to the recording of the plat.

H. Building setback lines with dimensions.

I. Legal description of the property being subdivided.

J. Lot numbers.

K. Certificate of Survey.

L. Description and location of all permanent monuments set in the subdivision, including ties to original Government corners.

M. A table that lists coordinate values for all property corners.

4. Accompanying Material.

A. The documents required by Chapter 354.11 of the *Code of Iowa*.

B. A copy of any proposed restrictive covenants, which shall be submitted for the purpose of review and recommendation by the City Attorney.

C. Any dedication or easement to the City for any property intended for public use.

D. A certificate by the City Engineer indicating that all required improvements and installations have been completed according to construction plans submitted with the preliminary plat.

5. Action by the City Council.

A. The City Council shall take action upon the final plat not more than 60 days after the initial receipt by the Zoning Administrator. Upon receipt of the final plat and the required documents, the City Council will consider the recommendations from the reviewing offices. The Zoning Administrator may schedule a public hearing on the subdivision request with the City Council, legal notice for which shall be published not less than seven days, nor more than 20 days prior to the hearing. The City Council shall approve or disapprove of the final plat. If the final plat is not approved, the Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within 20 days, the failure of the Council to issue approval of the final plat as provided in this chapter. If approved, the final plat shall be certified by resolution.

B. The City Council may refuse to approve a plat for a proposed subdivision, which includes improvements or facilities that are subject to regulations and ordinances of the County Board of Health, until such time as the improvements or facilities are approved by said Board. The City Council may deny approval of a final plat where the lots have an area less than the minimum area required by such applicable regulations and ordinances.

C. The passage of a resolution by the City Council accepting the plat shall constitute final platting approval for the area shown on the final plat. The proprietor shall cause such plat to be recorded as required by Chapter 354, *Code of Iowa*, before the County shall recognize the plat as being in full force and effect. In addition, 10 copies of the approved final plat and adopting resolution as well as one copy of the completed plat proceedings with restrictive covenants shall be submitted to the Zoning Administrator by the proprietor.

#### **160.21 MINOR SUBDIVISION REQUIREMENTS AND PROCEDURES. †**

1. The City Council shall take action upon minor plats not more than 60 days after the initial receipt by the Zoning Administrator. The proprietor shall prepare the proposed minor subdivision plat and shall submit 10 copies, one of which shall be full-size and the remaining may be reduced in size, to the Zoning Administrator. Said plat shall contain such information as required by this chapter, specifically the requirements in Sections 160.20(3) and (4), or as may be specified by the Zoning Administrator.

2. If the Zoning Administrator shall determine that the minor subdivision plat contains sufficient data and elements to furnish a basis for review, then the Zoning Administrator shall forward copies of the submitted plat to the City Engineer, Building Inspector, and to such other agencies or persons as may be deemed appropriate and necessary.

3. Within 10 working days following receipt of an application by the Zoning Administrator:

A. The City Engineer shall notify the Zoning Administrator that access onto the city street will, or will not, be granted and that other improvements do, or do not, conform to current standards.

B. The City Engineer and/or the Public Works Director shall notify the Zoning Administrator that the land so proposed to be subdivided will comply with all applicable City, County, and State standards, and that the proposed or existing system of water supply complies with applicable City, County, and State standards.

C. Other agencies or persons shall inform the Zoning Administrator on factors deemed appropriate and necessary.

4. Within 21 working days following the date of receipt of an application, or such additional period as the proprietor may authorize, the Zoning Administrator may schedule a public hearing on the subdivision request with the City Council.

5. The City Council may approve or disapprove of the subdivision request. In the event that a minor subdivision plat is not approved, the City Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal,

---

† **EDITOR'S NOTE:** Please refer to Appendix Page 17 for Minor Subdivision guidelines.



within 20 days to district court, the failure of the Council to issue final approval of the minor plat as provided in this chapter. If approved, the minor plat shall be certified by resolution.

6. This section shall not be applicable to a parcel of land of any size which has previously had a subdivision severed from it. For definition purposes of this section only, a parcel of land shall mean any sized contiguous piece of property under same ownership as shown on the Buchanan County Auditor's plat books on the effective date of this chapter.

**160.22 PROPERTY LINE ADJUSTMENTS.** Following a review of the plat of survey for a property line adjustment, the Zoning Administrator shall either approve the plat with or without specified conditions or disapprove of the plat. Any conditions specified for plat approval by the Zoning Administrator shall be accepted by the proprietor as a requirement for said approval. The following also apply:

1. Approval of the plat shall signify the general acceptability of the proposed property line adjustment with respect to Chapter 155 of this Code of Ordinances and this chapter and shall be deemed authorization to proceed with the preparation of necessary instruments for conveyance of one lot or parcel to the owner of an adjoining lot or parcel. A plat of survey shall be prepared for the division. A copy of the plat of survey shall be prepared by a licensed land survey and filed with the Zoning Administrator before approval may be given on a plat application. A copy of the Zoning Administrator's decision shall be recorded simultaneously with any and all instruments filed with the County Recorder that transfer ownership of said property being adjusted. Said instruments shall contain a deed restriction directing the County Auditor to combine the portion of land described in the instrument with the adjoining tract or parcel to create a single parcel. A copy of all instruments shall be submitted to the Zoning Administrator for review before being recorded in order to ensure that said deed restriction is included.

2. Disapproval of a plat shall signify the general unacceptability of the proposed property line adjustment with respect to Chapter 155 of this Code of Ordinances and/or this chapter. However, the proprietor may appeal the decision of the Zoning Administrator to the City Council for final determination.

**160.23 PLACES.** Where it is desired to subdivide a parcel of land that, because of its size or location, does not permit a normal lot or street area, there may be established a "place." Such a place may be in the form of a court, non-connecting street or other arrangement, provided, however, that proper access shall be given to all lots from a dedicated place (street or court). If any dead-end place, court, or cul-de-sac is more than 250 feet in length, it shall terminate in an open space, preferably circular having a minimum radius of 60 feet. Except in unusual instances, no dead-end street or place shall exceed 600 feet in length.

**160.24 ISSUANCE OF BUILDING PERMITS AND OCCUPANCY PERMITS**

1. No occupancy permit for any building in a subdivision shall be issued prior to the completion of the improvements in a manner which shall be adequate for vehicular access by the prospective occupant and by law enforcement and fire equipment.

2. No building permits shall be issued in the subdivision prior to the time that the streets and easements affecting such lot are brought to the grade established in the construction plans.

3. No building permit shall be issued for the final 10 percent of lots, or the final five lots of a subdivision, whichever is greater, until all public improvements required by the City Council for the plat have been fully completed and dedicated to the City.

**160.25 VACATION OF PLATS, STREETS, AND OTHER PUBLIC LANDS.** This section is intended to be consistent with Sections 354.22 and 354.23 of the *Code of Iowa*, as amended, and any changes to the Code shall automatically be assumed to be part of this chapter. The City Council shall make the final determination regarding vacations.

1. Vacation of Plats. The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition with the City Council, and they shall set a time and place for a public hearing on the petition. Written notice of the public hearing shall be provided by the petitioner to proprietors and mortgagees within 300 feet of the area to be vacated. If a portion of the official plat adjoins a river or state-owned lake, the Iowa Department of Natural Resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with 14 days between publications, stating the date, time, and place of the public hearing. The official plat or portion of the official plat shall be vacated upon recording of all the following documents:

- A. An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each property along with an accurate description to be used to describe the land after the lots are vacated.

- B. A resolution by the City Council approving the vacation and providing for the conveyance of those areas included in the vacation that were previously set aside for dedicated public use.

- C. A certificate of the County Auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

1. No part of this section authorizes the closing or obstructing of public highways. The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use of property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees within the official plat.

2. 2. Vacation of Streets and Other Public Lands. The City may vacate a part of an official plat that had been conveyed to the City or dedicated to public which is deemed by the City Council to be of no benefit to the public. The City Council shall vacate by resolution following a public hearing or by ordinance and the vacating instrument shall be recorded. The City may convey the vacated property by deed to adjoining proprietors through the vacation instrument. If the vacating instrument is used to convey property, then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed along with the corresponding legal description of each parcel being conveyed. A recorded vacation instrument that conforms to this section is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the County Recorder and County Auditor. A vacation instrument recorded pursuant to this subsection shall not operate to annul any part of an official plat except as provided for in Subsection 1 of this section.

**160.26 FEES.** Non-refundable fees pertaining to permits or applications and actions required by this chapter shall be established by City resolution. Said fees shall include, but not be limited to, the following actions.

1. Major subdivision (preliminary and final plat) review and consideration.
2. Minor subdivision review and consideration.
3. Vacation of plats, streets, and other public lands.
4. This fee shall not be administered and collected if the dedication or vacation is processed in the form of a plat and either minor or major subdivision fees are paid in lieu thereof.
5. Property line adjustments.
6. Recording fees, per a schedule on file in the County Recorder's Office.

**160.27 WAIVERS AND EXCEPTIONS.** Whenever the tract proposed to be subdivided is of such unusual topography, size, or shape, or is surrounded by such development or unique conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustices, the City Council may vary or modify such requirements to allow the proprietor to develop in a reasonable manner with due regard for the public health, welfare, and safety so that the interests of the City and surrounding area are protected and the general intent and spirit of this chapter is preserved. Cost or economic considerations associated with compliance or enforcement of this chapter shall not be used or cited as a sole reason for a hardship or injustice waiver request made by a proprietor under this section.

**160.28 ENFORCEMENT.** After the date of adoption of the ordinance codified in this chapter, no proposed plat or any subdivision in, or within two miles of, the corporate limits of the City shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein.

1. No street hereafter created in the incorporated area of the City shall become a part of any street system as defined in the *Code of Iowa*; and no improvements shall be made by the City, nor shall the City incur any expense for maintenance or repair of roads or other facilities on land that had been subdivided after the date of adoption of the ordinance codified in this chapter unless such road or other facility shall have been first approved and accepted by the City Council in accordance with the provisions of this chapter and the dedication thereof accepted as a public road or improvement.
2. The City shall not issue building, occupancy, or repair permits for any structure located on a lot in any subdivision developed after the date of adoption of the ordinance codified in this chapter that is located within the City unless the plat of such subdivision has been first approved in accordance with the provisions contained herein.
3. Violations of the provisions of this chapter or failure to comply with any of its requirements shall constitute a municipal infraction, punishable under the provisions of Chapter 3 of this Code of Ordinances. Each day such violation continues shall be considered a separate offense. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**160.29 CHANGES AND AMENDMENTS.** Any provisions of these regulations may be changed and amended from time to time by the City Council provided, however, that such changes and amendments shall not become effective until after approval by the City Council, in

accordance with the regulations and provisions of the City and the *Code of Iowa*. As a part of the Commission and Council's recommendation and approval processes, each body will conduct a properly noticed public hearing, notice of which shall be published in a newspaper of general circulation in the community not less than seven days, nor more than 20 days, prior to each public hearing.

o o o o o o o o o o

# INDEX TO CODE OF ORDINANCES

## CHAPTER OR SECTION NUMBER

---

<b>ABANDONED BUILDINGS</b> .....	145
<b>ABANDONED OR UNATTENDED REFRIGERATORS</b> .....	41.08
<b>ABANDONED UTILITY CONNECTIONS</b>	
On-Site Wastewater Treatment and Disposal Systems .....	98.07
Water Service.....	90.04
<b>ABANDONED VEHICLES</b> .....	80
<i>See also</i> Impounding Vehicles.....	70.06
<i>See also</i> State Code Traffic Regulations.....	62.01
<b>ABANDONMENT OF CATS AND DOGS</b> .....	55.04
<b>ABATEMENT OF NUISANCES</b> .....	50
<b>ACCESSORY BUILDINGS</b> .....	155.06(2)
<b>ACCOUNTING RECORDS</b> .....	7.07
<b>AIR POLLUTION</b> .....	50.02(8)
<i>See also</i> ENVIRONMENTAL VIOLATION.....	3.02
<b>AIRPORT AIR SPACE</b> .....	50.02(11)
<b>ALCOHOL</b>	
Consumption and Intoxication .....	45
Liquor Licenses and Wine and Beer Permits .....	120
Open Containers in Motor Vehicles.....	62.01(6)
Social Host Liability .....	45.04
<b>ALL-TERRAIN VEHICLES AND SNOWMOBILES</b> .....	75
<b>AMUSEMENT DEVICES</b> .....	120.06
<b>ANGLE PARKING</b> .....	69.03 and 69.04
<b>ANHYDROUS AMMONIA STORAGE</b> .....	156
<b>ANIMAL PROTECTION AND CONTROL</b>	
Abandonment of Cats and Dogs .....	55.04
Animal Neglect .....	55.02
Annoyance or Disturbance .....	55.08
At Large Prohibited.....	55.06
Confinement of Animals Suspected of Having Rabies .....	55.11
Damage or Interference by Animals .....	55.07
Dangerous and Vicious Animals.....	56
Duty to Report Attacks.....	55.10
Exemption of Police Service Dogs.....	55.16
Impounding .....	55.11 and 56.03
Livestock.....	55.03 and 55.05

	CHAPTER OR SECTION NUMBER
<b>ANIMAL PROTECTION AND CONTROL (continued)</b>	
Pet Awards Prohibited.....	55.17
Rabies Vaccination.....	55.09
Right to Kill Licensed Dogs.....	55.14
Right to Kill Unlicensed Dogs.....	55.13
Tampering with a Rabies Vaccination Tag.....	55.18
Tampering with an Electronic Handling Device.....	55.19
Vicious Dogs.....	56
<b>ANTENNA AND RADIO WIRES.....</b>	<b>41.09</b>
<b>APPOINTMENTS</b>	
By Council.....	17.05
By Mayor.....	15.03
<b>ASSAULT.....</b>	<b>40.01</b>
<b>ATTORNEY FOR CITY.....</b>	<b>20</b>
<b>AUTOMOBILE REPAIR ON PUBLIC PROPERTY.....</b>	<b>69.05(2)</b>
<b>AWNINGS.....</b>	<b>136.12</b>
<b>BARBED WIRE AND ELECTRIC FENCES.....</b>	<b>41.10</b>
<b>BEER, LIQUOR, AND WINE CONTROL</b>	
<i>See ALCOHOL</i>	
<b>BICYCLES.....</b>	<b>76</b>
<i>See also Clinging to Vehicles.....</i>	<i>62.04</i>
<i>See also State Code Traffic Regulations.....</i>	<i>62.01</i>
<b>BILLBOARDS.....</b>	<b>50.02(6) and 62.06</b>
<b>BONDS</b>	
City Officials.....	5.02
House Movers.....	123.04
Public Bonds, Records of.....	18.08(3)
Transient Merchants.....	122.06
<b>BUDGET</b>	
Amendments.....	7.06
Preparation.....	7.05
<b>BUILDING MOVERS.....</b>	<b>123</b>
<b>BUILDING NUMBERING.....</b>	<b>150</b>
<b>BUILDING SEWERS AND CONNECTIONS.....</b>	<b>96</b>
<b>BUILDINGS, DANGEROUS.....</b>	<b>145</b>

	CHAPTER OR SECTION NUMBER
<b>BULKY RUBBISH</b> .....	106.05
<b>BURNING</b>	
Burning on Streets and Alleys.....	135.08
Fires in Parks.....	47.03
Fires or Fuel on Sidewalks.....	136.15
Open Burning Restricted.....	105.05
Yard Waste.....	105.06
<b>BUSINESS DISTRICT</b> .....	60.02(1)
<i>See also:</i>	
Bicycles on Sidewalks.....	76.08(1)
Sidewalks .....	136.08(5)(B)
<b>CABLE TELEVISION</b>	
Franchise .....	113
<b>CAMPING IN PARKS</b> .....	47.06
<b>CAR WASHING ON STREETS</b> .....	135.07
<b>CHARTER</b> .....	2
<b>CIGARETTES AND TOBACCO</b>	
Permits .....	121
Possession by Minors.....	46.03
<b>CITY ATTORNEY</b> .....	20
<b>CITY CHARTER</b> .....	2
<b>CITY CLERK</b> .....	18
<b>CITY COUNCIL</b>	
Appointments by .....	17.05
Compensation.....	17.06
Meetings.....	17.04 and 5.06
Number and Term .....	2.04 and 17.01
Powers and Duties.....	17.02 and 17.03
<b>CITY ELECTIONS</b> .....	6
<b>CITY OFFICERS AND EMPLOYEES</b>	
Appointments by Council .....	17.05
Appointments by Mayor .....	15.03
Bonds .....	5.02
City Attorney.....	20
City Clerk.....	18
City Council .....	17
City Treasurer.....	19



CHAPTER OR SECTION  
NUMBER

**CITY OFFICERS AND EMPLOYEES (continued)**

Conflict of Interest.....	5.07
Discretionary Powers .....	1.13
Extension of Authority .....	1.07
Fire Chief.....	35
Gifts to.....	5.11
Harassment of.....	41.05
Indemnity of .....	1.04
Mayor .....	15
Oath of Office.....	5.01
Powers and Duties .....	5.03
Removal of an Officer’s Communication or Control Device.....	41.07
Removal of Appointed Officers and Employees.....	5.09
Resignations .....	5.08
Sewer Superintendent.....	95.03
Vacancies .....	5.10
Water Superintendent.....	90.02
<b>CITY OPERATING PROCEDURES .....</b>	<b>5</b>
<b>CITY POWERS.....</b>	<b>1.03</b>
<b>CITY SEAL.....</b>	<b>18.13</b>
<b>CIVIL CITATIONS .....</b>	<b>3.04</b>
<b>CLINGING TO VEHICLE .....</b>	<b>62.04</b>
<b>CODE OF IOWA TRAFFIC REGULATIONS .....</b>	<b>62.01</b>
<b>CODE OF ORDINANCES</b>	
Altering.....	1.10
Amendments to.....	1.08
Catchlines and Notes .....	1.09
Definitions of Terms .....	1.02
Rules of Construction.....	1.06
Validity.....	1.11
<b>COMPENSATION</b>	
Changes in.....	17.02(7)
City Attorney.....	20.01
City Clerk.....	18.01
Council Members .....	17.06
Library Board of Trustees .....	21.04(3)
Mayor .....	15.04
Mayor Pro Tem .....	16.04
Set by Council .....	17.02(7)
Treasurer.....	19.02

	CHAPTER OR SECTION NUMBER
<b>CONFLICT OF INTEREST</b> .....	5.07
<b>CONTRACT LAW ENFORCEMENT</b> .....	30
<b>CONTRIBUTING TO DELINQUENCY</b> .....	46.04
<b>COUNCIL</b> .....	17
<b>COUNCIL MEETINGS</b> .....	17.04
<b>CRIMINAL MISCHIEF</b> .....	42.02
<b>CROSSWALKS</b>	
Designation and Maintenance .....	61.02
Parking Prohibited in .....	69.06(1)
Pedestrians in Crosswalks .....	65.09
<b>CURFEW</b> .....	46.01
<b>DANGEROUS BUILDINGS</b> .....	145
<b>DANGEROUS SUBSTANCES, DISTRIBUTING OF</b> .....	41.01
<b>DANGEROUS TOYS (THROWING AND SHOOTING)</b> .....	41.12
<b>DEFACING PROCLAMATIONS AND NOTICES</b> .....	42.03
<b>DEPOSITS AND INVESTMENTS</b> .....	7.03(2)
<b>DESTRUCTION OF PROPERTY</b> .....	42.02
<b>DISCRETIONARY POWER OF CITY OFFICERS AND EMPLOYEES</b> .....	1.13
<b>DISORDERLY CONDUCT</b> .....	40.03
<b>DOGS</b> .....	55 and 56
<i>See also ANIMALS</i>	
<b>DRIVEWAY CULVERTS</b> .....	135.14
<b>DUTCH ELM DISEASE</b> .....	50.02(10) and 151
<b>EASEMENTS, USE OF</b> .....	95.08
<b>ELECTIONS</b>	
Duties of Clerk .....	18.12
Procedures.....	6
<b>ELECTRIC FRANCHISE</b> .....	111
<b>ENVIRONMENTAL VIOLATIONS</b> .....	3.02

	CHAPTER OR SECTION NUMBER
<b>EXCAVATIONS</b>	
Sewer.....	96.04
Streets.....	135.09
Water.....	90.09
<b>EXTENSION OF AUTHORITY .....</b>	<b>1.07</b>
<b>FAILURE TO DISPERSE.....</b>	<b>40.05</b>
<b>FALSE IDENTIFICATION INFORMATION .....</b>	<b>41.03</b>
<b>FALSE REPORTS</b>	
Of Catastrophe.....	40.03(5)
To Public Safety Entities.....	41.02
<b>FENCES</b>	
Barbed Wire and Electric Fences .....	41.10
Blocking Public and Private Ways.....	50.02(5)
Building Requirements.....	155.05
<b>FIGHTING.....</b>	<b>40.03(1)</b>
<b>FINANCE OFFICER.....</b>	<b>7.02</b>
<b>FINANCES.....</b>	<b>7</b>
<b>FINANCIAL REPORTS.....</b>	<b>7.08</b>
<b>FIRE DEPARTMENT .....</b>	<b>35</b>
<b>FIRE HAZARD CONDITIONS</b>	
Health and Fire Hazard.....	105.04
Storing of Flammable Junk .....	50.02(7)
Unsafe Buildings.....	145
Weeds and Brush.....	50.02(9)
<b>FIRE SPRINKLER SYSTEMS CONNECTIONS.....</b>	<b>91.03</b>
<b>FIRES</b>	
In Parks.....	47.03
On Sidewalks.....	136.15
Open Burning Restricted.....	105.05
<b>FIREWORKS .....</b>	<b>41.14</b>
<b>FISCAL MANAGEMENT .....</b>	<b>7</b>
<b>FLAG, DISRESPECT OF .....</b>	<b>40.03(6)</b>
<b>FORM OF GOVERNMENT.....</b>	<b>2.02</b>

	CHAPTER OR SECTION NUMBER
<b>FRAUD</b> .....	42.05
<b>FUNDS</b> .....	7.04
<b>FUNERAL SERVICE, DISRUPTION OF</b> .....	40.03(8)
<i>See also</i> State Code Traffic Regulations .....	62.01
<b>GANG ACTIVITY</b> .....	50.02(12)
<b>GARBAGE COLLECTION AND DISPOSAL</b> .....	105 and 106
<b>GAS FRANCHISE</b> .....	110
<b>GIFTS TO CITY OFFICIALS</b> .....	5.11
<b>GRADES OF STREETS, ALLEYS AND SIDEWALKS</b> .....	138
<b>HANDICAPPED PARKING</b>	
<i>See</i> Persons with Disabilities Parking .....	69.07
<b>HARASSMENT</b>	
Of Other Persons .....	40.02
Of Public Officers and Employees.....	41.05
<b>HAZARDOUS WASTE</b> .....	105.08
<i>See also</i> Prohibited and Restricted Discharges to Sewer System.....	97.03 and 97.04
<b>HITCHHIKING</b> .....	67.02
<b>HOUSE MOVERS</b> .....	123
<b>HOUSE NUMBERS</b> .....	150
<b>HOUSES OF ILL FAME</b> .....	50.02(12)
<b>IMPOUNDING</b>	
Animals .....	56.03
Bicycles.....	76.13
Vehicles.....	70.06 and 80
<b>INDEMNITY AGREEMENT, PERMITS AND LICENSES</b> .....	1.04
<b>INDUSTRIAL PROPERTY TAX EXEMPTIONS</b> .....	8
<b>INSURANCE REQUIREMENTS</b>	
Firefighters .....	35
Fireworks .....	41.14
House Movers .....	123.05
Public Right-of-Way Property .....	140.18
Street Excavations.....	135.09

	CHAPTER OR SECTION NUMBER
<b>INTERFERENCE WITH OFFICIAL ACTS</b> .....	41.06
<b>INVESTMENTS AND DEPOSITS</b> .....	7.03(2)
<b>JUNK AND JUNK VEHICLES</b> .....	51
<i>See also</i> Storing of Flammable Junk .....	50.02(7)
<b>LEGAL OPINIONS</b> .....	20.06
<b>LIBRARY</b> .....	21
<b>LICENSES</b>	
Dogs .....	55.13 and 55.14
Drivers.....	62.01
Fireworks.....	41.14
Liquor.....	120
Peddlers, Solicitors and Transient Merchants .....	122
<i>See also</i> Issuance of Licenses and Permits.....	18.10
<i>See also</i> <b>PERMITS</b>	
<b>LIQUOR LICENSES AND WINE AND BEER PERMITS</b> .....	120
<b>LITTERING</b>	
Debris on Sidewalks.....	136.17
Park Regulations.....	47.04
Placing Debris on Streets .....	135.03
Solid Waste Control .....	105.07
<b>LIVESTOCK</b> .....	55.03 and 55.05
<b>LOAD AND WEIGHT RESTRICTIONS, VEHICLES</b> .....	66
<b>MANUFACTURED AND MOBILE HOMES</b> .....	146
<b>MAYOR</b>	
Appointments .....	15.03
Compensation.....	15.04
Powers and Duties .....	15.02
Term of Office.....	15.01
Voting.....	15.05
<i>See also</i> <b>CITY OFFICERS AND EMPLOYEES</b>	
<b>MAYOR PRO TEM</b> .....	16
<b>MEETINGS</b>	
Council Meetings .....	17.04
Procedures for Notice and Conduct of .....	5.06
Publication of Minutes of Council Meetings.....	18.03

	CHAPTER OR SECTION NUMBER
<b>METERS, WATER</b> .....	91
<b>MINORS</b> .....	46
<i>See also:</i>	
Amusement Devices.....	120.06
Employment for Serving of Alcohol.....	120.05(4)
In Licensed Premises.....	120.05(12)
Persons Under Legal Age-Alcohol .....	45.01
Persons Under Legal Age-Tobacco.....	121.07
<b>MOBILE HOMES</b> .....	146
<b>MOWING OF PROPERTIES</b> .....	52
<b>MUNICIPAL INFRACTIONS</b> .....	3
<i>See also</i> <b>MUNICIPAL INFRACTION ABATEMENT PROCEDURE</b> .....	50.06 and 50.07
<b>NAMING OF STREETS</b> .....	139
<b>NATURAL GAS FRANCHISE</b> .....	110
<b>NOISE</b>	
Annoyance or Disturbance (Barking Dogs).....	55.08
Disorderly Conduct.....	40.03(2) and 40.03(8)
Quiet Zones.....	62.05
<b>NOMINATIONS FOR ELECTIVE OFFICES</b> .....	6
<b>NUISANCE ABATEMENT PROCEDURE</b> .....	50
<b>NUMBERING OF BUILDINGS</b> .....	150
<b>OATH OF OFFICE</b> .....	5.01
<b>OFFENSIVE SMELLS AND SUBSTANCES</b> .....	50.02(1) and (2)
<i>See also</i> Restricted Discharges to Sanitary Sewer System.....	97.04
<b>OFF-ROAD MOTORCYCLES AND UTILITY VEHICLES</b> .....	75
<b>ONE-WAY TRAFFIC</b> .....	68
<b>ON-SITE WASTEWATER SYSTEMS</b> .....	98
<b>OPEN BURNING</b> .....	105.05
<b>OPEN CONTAINERS IN MOTOR VEHICLES</b> .....	62.01(6)
<b>OPEN MEETINGS</b> .....	5.06
<b>OPERATING PROCEDURES</b> .....	5

	CHAPTER OR SECTION NUMBER
<b>PARADES REGULATED</b> .....	60.08
<b>PARK REGULATIONS</b> .....	47
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits) .....	63.03
<b>PARKING REGULATIONS</b>	
Angle Parking.....	69.03 and 69.04
Illegal Purposes .....	69.05
No Parking Zones.....	69.08
Park Adjacent to Curb .....	69.01 and 69.02
Parking of Bicycles .....	76.11
Parking Prohibited.....	69.06
Parking Violations.....	70.03 and 70.04
Persons With Disabilities Parking.....	69.07
Snow Emergency.....	69.10
Truck Parking Limited .....	69.09
<b>PEACE OFFICERS</b>	
Failure to Assist.....	41.04
Interference with.....	41.06
Obedience to.....	60.07
Powers and Authority under Traffic Code .....	60
Removal of an Officer’s Communication or Control Device.....	41.07
<i>See also</i> <b>CONTRACT LAW ENFORCEMENT</b> .....	30
<b>PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS</b> .....	122
<b>PEDESTRIANS</b> .....	67
<i>See also:</i>	
Crosswalks .....	61.02
State Code Traffic Regulations .....	62.01
Yield to Pedestrians in Crosswalks .....	65.09
<b>PENALTIES</b>	
Abatement of Violation of Sewer Connection Requirements .....	96.10
Additional Penalties – Cigarette and Tobacco Permits .....	121.07
Curfew Violations .....	46.01(6)
Municipal Infractions .....	3
Special Penalties (Sanitary Sewer Regulations).....	95.09
Special Penalty (Bicycle Regulations) .....	76.13
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic Code Violations.....	70

CHAPTER OR SECTION  
NUMBER

**PERMITS**

Beer, Wine, and Liquor ..... 120  
 Building..... 155  
 Cigarette and Tobacco..... 121.02  
 Fireworks ..... 41.14(3)  
 House Mover..... 123.02  
 Mobile Home Park ..... 146.06  
 Occupancy..... 160.24  
 On-Site Wastewater System..... 98.04  
 Parade..... 60.08(2)  
 Persons with Disabilities Parking..... 69.07  
 Public Rights-of-Way Work ..... 140.11  
 Restricted Residence District ..... 155  
 Sewer Connection ..... 96.01  
 Sidewalks ..... 136.07  
 Street Excavation ..... 135.09(1)  
 Surface Water Discharge to Sanitary Sewer ..... 97.02  
 Tree Planting ..... 151.02  
 Vehicles, Excess Size and Weight ..... 66.02  
 Vending Machines and Sales Stands on Sidewalks ..... 136.19  
 Water System Connection..... 90.05  
*See also* Issuance of Licenses and Permits..... 18.10

*See also* **LICENSES**

**PERSONAL INJURIES** ..... 1.05

**PET AWARDS PROHIBITED**..... 55.17

**PETTY CASH FUND** ..... 7.03(3)

**PLAY STREETS** ..... 62.02

*See also* Playing in Streets ..... 135.04

**POLICE DEPARTMENT**

*See* **CONTRACT LAW ENFORCEMENT**

**POLLUTION**

Air Pollution..... 50.02(8)  
 Environmental Violations ..... 3.02  
 Incinerators Required..... 105.10  
 Open Burning Restricted..... 105.05  
 Prohibited Discharges to Public Sewer ..... 97.03  
 Restricted Discharges to Sewer System..... 97.04  
 Toxic and Hazardous Wastes ..... 105.08  
 Water Pollution ..... 50.02(4)



	CHAPTER OR SECTION NUMBER
<b>POOL BOARD</b> .....	22
<b>POWERS AND DUTIES</b>	
City Clerk .....	18.02
City Council .....	17.02 and 17.03
City Officers Generally .....	2.03
Fire Chief.....	35.07
Mayor .....	15.02
Mayor Pro Tem .....	16.02
Municipal Officers .....	5.03
<b>PRIVATE PROPERTY</b> .....	42
<b>PRIVATE WATER SYSTEMS (SEWER CHARGES)</b> .....	99.03
<b>PROPERTY TAX EXEMPTIONS</b> .....	8
<b>PUBLIC AND PRIVATE PROPERTY</b> .....	42
<i>See also:</i>	
Criminal Mischief.....	42.02
Damage to Sewer System.....	95.04(1)
Defacing Proclamations or Notices .....	42.03
Fraud.....	42.05
Injury to Library Books or Property.....	21.10
Littering Prohibited .....	105.07
Park Regulations.....	47
Sidewalk Regulations .....	136
Street Excavations .....	135
Theft .....	42.06
Trees and Shrubs .....	151
Trespassing.....	42.01
Unauthorized Entry .....	42.04
<b>PUBLIC HEALTH AND SAFETY</b> .....	41
<b>PUBLIC NOTICES</b> .....	18.05
<b>PUBLIC OFFENSES</b>	
Littering Prohibited .....	105.07
Public and Private Property .....	42
Public Health and Safety .....	41
Public Peace .....	40
<i>See also</i> <b>SIDEWALK REGULATIONS</b> .....	136
<i>See also</i> <b>STREET USE AND MAINTENANCE</b> .....	135
<b>PUBLICATION REQUIREMENTS</b> .....	18.05

	CHAPTER OR SECTION NUMBER
<b>RABIES VACCINATION</b> .....	55.09
<b>RAILROAD REGULATIONS</b> .....	81
<b>RECORDS</b>	
Accounting .....	7.07
Fire Department .....	35.07(12)
Maintenance by Clerk .....	18.08
Minutes of Council Meetings.....	5.06(3)
Public Records, Access to .....	5.04
Transfer to Successors.....	5.05
<b>REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES</b> .....	5.09
<b>RESIGNATION OF ELECTED OFFICERS</b> .....	5.08
<b>RESTRICTED RESIDENCE DISTRICT</b> .....	155
<b>RIGHT TO ENTER</b>	
Fire Chief .....	35.07(9)
Sewer Service Inspection and Sampling .....	95.07
Solid Waste Collection.....	106.06
Use of Easements .....	95.08
Warrants .....	1.12
Water Meter Service .....	91.08
<b>SANITARY SEWER SYSTEM</b>	
Building Sewers and Connection Requirements .....	96
General Provisions .....	95
On-Site Wastewater Systems .....	98
Sewer Service Charges.....	99
Use of Public Sewers .....	97
<b>SEWER RATES</b> .....	99
<b>SIDEWALKS</b>	
Barricades and Warning Lights.....	136.09
Bicycles on Sidewalks.....	76.08
Construction Standards .....	136.08
Debris on .....	136.17
Defacing .....	136.16
Encroaching Steps.....	136.13
Fires and Fuel on.....	136.15
Interference with Improvements .....	136.11
Maintenance .....	136
Openings and Enclosures .....	136.14

CHAPTER OR SECTION  
NUMBER

**SIDEWALKS (continued)**  
 Parking Prohibited on Sidewalks ..... 69.06(4)  
 Sales Stands and Merchandise Displays..... 136.18 and 136.19  
 Snow Removal ..... 136.03  
 Use by Pedestrians..... 67.04  
 Vehicles Crossing Sidewalks ..... 65.07  
 Vehicles on Sidewalks..... 62.03

**SKATES, COASTERS AND TOY VEHICLES**  
 Clinging to Vehicle ..... 62.04

**SNOW REMOVAL**  
 From Sidewalks..... 136.03  
 From Streets ..... 135.12 and 135.13  
 Parking ..... 69.10

**SNOWMOBILES AND ALL-TERRAIN VEHICLES..... 75**

**SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS ..... 122**

**SOLID WASTE CONTROL**  
 Collection ..... 106  
 General Provisions ..... 105  
*See also* Restricted Discharges to Sewer System ..... 97.04

**SPEED REGULATIONS..... 63**

**STATE CODE TRAFFIC REGULATIONS ..... 62.01**

**STOP OR YIELD REQUIRED ..... 65**

**STORM WATER**  
 Discharge to Sanitary Sewer Prohibited..... 95.04(2) and 97.01  
 Surface Water Exception..... 97.02

**STREET NAME MAP..... 139.04 and 139.05**

**STREETS AND ALLEYS**  
 Billboards and Signs Obstructing View ..... 50.02(6)  
 Blocking Public and Private Ways..... 50.02(5)  
 Excavations and Maintenance ..... 135  
 Grades..... 138  
 Naming..... 139  
 Obstructing Use of Streets..... 40.03(7)  
 Vacation and Disposal..... 137

*See also* **TRAFFIC CODE**

**SUBDIVISION REGULATIONS ..... 160**

	CHAPTER OR SECTION NUMBER
<b>TAX EXEMPTIONS</b>	
Industrial Property.....	8
<b>TELEPHONE FRANCHISE .....</b>	<b>112</b>
<b>TERMS OF OFFICE</b>	
Clerk.....	18.01
Council.....	2.04 and 17.01
Mayor.....	2.05 and 15.01
Treasurer .....	19.01
<b>THEFT</b>	
Library Property.....	21.11
Public and Private Property.....	42.06
<b>TOBACCO PERMITS .....</b>	<b>121</b>
<b>TOXIC AND HAZARDOUS WASTE .....</b>	<b>105.08</b>
<b>TRAFFIC CODE</b>	
Administration of.....	60
Enforcement Procedures .....	70
General Regulations.....	62
Load and Weight Restrictions.....	66
One-Way Traffic .....	68
Parking Regulations .....	69
Pedestrians .....	67
Speed Regulations.....	63
Stop or Yield Required.....	65
Traffic Control Devices.....	61
Turning Regulations.....	64
<b>TRAFFIC CONTROL DEVICES</b>	
Installation; Standards; Compliance.....	61
Location .....	65
Traveling on Barricaded Street or Alley .....	135.05
<b>TRAFFIC REGULATIONS.....</b>	<b>62.01</b>
<b>TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS.....</b>	<b>122</b>
<b>TREASURER.....</b>	<b>19</b>
<b>TREES</b>	
Disease Control.....	151.05
Dutch Elm Disease.....	50.02(10)
Duty to Trim Trees.....	151.03
Inspection and Removal of.....	151.06
Maintenance of Parking or Terrace.....	135.10

	CHAPTER OR SECTION NUMBER
<b>TREES (continued)</b>	
Obstructing View at Intersections .....	62.06
Open Burning Restrictions .....	105.05
Planting Restrictions.....	151.02
Trimming Trees to be Supervised .....	151.04
Yard Waste.....	105.06
<b>TRESPASSING</b> .....	42.01
<b>TRUCK PARKING LIMITED</b> .....	69.09
<b>TURNING REGULATIONS</b> .....	64
<b>UNAUTHORIZED ENTRY</b> .....	42.04
<b>UNLAWFUL ASSEMBLY</b> .....	40.04
<b>URINATING AND DEFECATING IN PUBLIC</b> .....	41.13
<b>UTILITIES</b>	
Cable Television.....	113
Electric .....	111
Natural Gas.....	110
Sewer Service System .....	95 - 99
Telephone .....	112
Water Service System .....	90 - 92
<b>VACANCIES IN OFFICE</b> .....	5.10
<b>VACATING STREETS OR ALLEYS</b> .....	137
<b>VETO</b>	
Council May Override.....	17.03
Mayor’s Authority .....	15.02(4)
<b>VICIOUS DOGS</b> .....	56
<b>VIOLATIONS</b>	
Cigarette and Tobacco Violations (Sale to Minors) .....	121.07
Environmental .....	3.02
Municipal Infractions .....	3
Parking .....	70
Special Penalties for Violation of Sanitary Sewer Regulations .....	95.09
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic.....	62.01

	CHAPTER OR SECTION NUMBER
<b>WARDS</b> .....	17.02
<b>WARRANTS</b> .....	1.12
<b>WASTE STORAGE CONTAINERS</b> .....	105.09
<b>WASTEWATER SYSTEMS, ON-SITE</b> .....	98
<b>WATER POLLUTION</b> .....	50.02(4)
<b>WATER SERVICE SYSTEM</b> .....	90
Connections; General Regulations .....	90
Meters.....	91
Rates.....	92
<b>WEAPONS</b>	
Discharging Weapons in City Limits.....	41.11
Throwing and Shooting.....	41.12
<b>WEEDS AND BRUSH</b> .....	50.02(9)
<b>WELL PROTECTION</b> .....	147
<b>WINE</b>	
<i>See</i> <b>ALCOHOL</b>	
<b>YARD WASTE</b> .....	105.06
<b>YIELD REQUIRED</b> .....	65
<b>ZONING REGULATIONS</b>	
<i>See</i> <b>RESTRICTED RESIDENCE DISTRICT</b>	

---

CHAPTER OR SECTION  
NUMBER

---

o o o o o o o o o o

CHAPTER OR SECTION  
NUMBER

---





# APPENDIX TO CODE OF ORDINANCES

---

## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

**RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

**SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

**DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

**AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

**ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WINTHROP, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF \_\_\_\_\_ STREET

BE IT ENACTED by the City Council of the City of Winthrop, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Winthrop, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. \_\_\_\_\_ Street, on the \_\_\_\_ side, from \_\_\_\_\_ Street to \_\_\_\_\_ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WINTHROP, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON \_\_\_\_\_ STREET.

BE IT ENACTED by the City Council of the City of Winthrop, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Winthrop, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on \_\_\_\_\_ Street to stop at \_\_\_\_\_ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
City Clerk

**MODIFICATION OR CHANGE OF EXISTING PROVISION**

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WINTHROP, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Winthrop, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.01 of the Code of Ordinances of the City of Winthrop, Iowa, is repealed and the following adopted in lieu thereof:

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service charges in the amount of \_\_\_\_\_ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$ \_\_\_\_\_ dollars per \_\_\_\_\_.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

**ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

*(Code of Iowa, Sec. 380.8)*

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO WINTHROP, IOWA**

Be It Enacted by the City Council of the City of Winthrop, Iowa:

**SECTION 1.** The (location or legal description of street or alley) to Winthrop, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

**SUGGESTED FORMS**

---

**FIRST NOTICE – DANGEROUS BUILDING**

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Winthrop, Iowa

By: \_\_\_\_\_  
(enforcement officer)



**NOTICE OF HEARING ON DANGEROUS BUILDING**

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Winthrop, Iowa, will meet on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as \_\_\_\_\_, constitutes a nuisance pursuant to Chapter \_\_\_\_\_ of the Code of Ordinances of Winthrop, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of Winthrop, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**RESOLUTION AND ORDER  
REGARDING DANGEROUS BUILDING**

**BE IT RESOLVED**, by the City Council of the City of Winthrop, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within \_\_\_ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

**WHEREAS**, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

**WHEREAS**, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

**NOW THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within \_\_\_ days after the service of this Order upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

**BE IT FURTHER RESOLVED** that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by \_\_\_\_\_ to adopt.

Adopted this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**Note:** It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

**NOTICE TO ABATE NUISANCE**

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Winthrop, Iowa

By: \_\_\_\_\_  
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within \_\_\_\_\_ (\_\_\_\_) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The nearest public sewer line within \_\_\_\_\_ (\_\_\_\_) feet of the above described property is located

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: \_\_\_\_\_

City of Winthrop, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that the City Council of Winthrop, Iowa, will meet on the \_\_\_ day of \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of Winthrop, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

**RESOLUTION AND ORDER**

**REQUIRED SEWER CONNECTION**

**BE IT RESOLVED**, by the City Council of the City of Winthrop, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on

\_\_\_\_\_  
(Name of Property Owner)

through \_\_\_\_\_, Agent,  
(Agent’s Name or “None”)

to make connection of the property described as

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to the public sanitary sewer located \_\_\_\_\_  
within \_\_\_\_\_ (\_\_\_\_\_) days from service of notice upon said owner or agent. and

(EITHER)

**WHEREAS**, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

**WHEREAS**, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

**NOW, THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner’s agent, \_\_\_\_\_  
(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within \_\_\_\_\_ days after the service of this ORDER upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

**BE IT FURTHER RESOLVED**, that in the event the owner, or agent,

\_\_\_\_\_,  
(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

\_\_\_\_\_  
(Owner's Name)

\_\_\_\_\_, as provided by law.  
(Address)

Moved by \_\_\_\_\_ to adopt.

Seconded by \_\_\_\_\_.

AYES: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_.

NAYS: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_.

Resolution approved this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
(Applicant's Signature)

**PROCEDURAL GUIDELINES FOR SUBDIVISION PLATTING  
WITHIN THE CORPORATE LIMITS OF WINTHROP, IOWA**

The following Procedural Guidelines are a summary of the Winthrop Subdivision Ordinance for use by the public. They are not meant to be substituted for the Ordinance. In the event that questions or conflicts between the Ordinance and these Procedural Guidelines arise, the Ordinance shall prevail.

**MAJOR SUBDIVISION PROCEDURE**

The division of any lot or parcel of land classified by the Zoning Administrator as a "major subdivision", as defined in the Chapter 160 of this Code of Ordinances, shall follow this procedure:

1. Check with Zoning Administrator for current restricted residence ordinance, subdivision regulations, land use classifications, and other code applicability. The property must be correctly zoned before a subdivision will be considered by the City.  
  
Check with Public Works Department for water, sanitary sewer, stormwater, and water pollution control standards.  
  
Discuss development concepts and explore alternative solutions.
2. The Zoning Administrator sends notice and plat to the City Engineer, Public Works Director, and City Attorney
3. Bring abstract up to date.
4. Get clear title to the property, becoming legal proprietor.
5. Hire a licensed engineer or land surveyor to make a survey, prepare a base map, and to set out the lots. The proprietor may also want to consult a landscape architect or land planner for design considerations and site planning aspects.
6. The proprietor may request a concept review by the Zoning Administrator, City Engineer, and Public Works Director prior to drafting the preliminary plat. This phase is at the option of the proprietor.
7. Have a preliminary plat prepared.
8. Submit 10 copies of the preliminary plat, one of which shall be full size and the remaining may be reduced in size, to the Zoning Administrator. Copies must also be submitted to the City Engineer, Public Works Director, and City Attorney. The Zoning Administrator will date the plat and issue a receipt for filing fees. The proprietor may be asked to sign a release authorizing the Zoning Administrator and/or the City Council to inspect the property.
9. The preliminary plat copies are reviewed by:
  - a. City Engineer.
  - b. Mayor and City Council.
  - c. City Clerk/Zoning Administrator.
  - d. Public Works Director.
  - e. City Attorney.

CODE OF ORDINANCES, WINTHROP, IOWA



10. All copies are to be studied and written recommendations sent to the Zoning Administrator. An environmental impact analysis prepared by a qualified professional may be required.
11. The Zoning Administrator refers the preliminary plat to the City Council.
12. If the preliminary plat is approved by resolution of the Council, the petitioner will then install all improvements and shall submit 10 copies of the final plat, one of which shall be full-size and the remaining may be reduced in size, to the Zoning Administrator, as well as copies to the City Engineer, Public Works Director, and City Attorney, and at the same time submit a proposed resolution for the City Council.
13. The final plat shall be reviewed by:
  - a. City Engineer.
  - b. Mayor and City Council.
  - c. City Clerk/Zoning Administrator.
  - d. Public Works Director.
  - e. City Attorney.
14. The final plat and all associated legal documents are referred to the City Council. If the subdivision is approved by the Council, the resolution will be signed by the Mayor and the City Clerk. A copy of the final plat along with a copy of the City Council resolution will be sent to each of the following offices:
  - a. City Engineer
  - b. City Attorney
  - c. City Clerk/Zoning Administrator
  - d. Public Works Director
  - e. Mayor and City Council
  - f. County Recorder
  - g. County Assessor
  - h. County Auditor
  - i. Petitioner
15. After final approval by the City Council and acceptance of the improvements, the final plat is filed in the County Recorder's office.
16. The following information may be required by the County Recorder, per Section 354.11 of the *Code of Iowa*:
  - a. Plat
  - b. Abstract
  - c. Survey
  - d. Deed of Dedication

**MINOR SUBDIVISION PROCEDURE**

The division of any lot or parcel of land classified by the City Clerk/Zoning Administrator as a "minor subdivision", as defined in Chapter 160 of this Code of Ordinances, shall follow this procedure.

1. Check with City Clerk/Zoning Administrator for current restricted residence ordinance, subdivision regulations, land use classifications, and other code applicability. The property must be correctly zoned before subdivision will be considered by the City.
2. Check with Public Works Department for water and water pollution control standards.
3. Submit 10 copies of the plat, one of which shall be full-size and the remaining may be reduced in size, to the City Clerk/Zoning Administrator, along with the minor subdivision application form and fee payment.
4. The plat will be reviewed by the following departments:
  - a. City Engineer.
  - b. City Attorney.
  - c. Zoning Administrator.
  - d. Mayor and City Council.
  - e. City Clerk.

Within 10 days following submission of all information, all aforementioned departments will submit their findings to the City Council, who will either approve or disapprove the request.

**PRELIMINARY PLAT CHECKLIST FOR SUBDIVISIONS**

	Pre-Preliminary Plat Conference with City officials. Date held: _____
	Concept Plan _____ Location of subdivision _____ Vicinity map _____ Street and block layout _____ Drainage courses and key size features _____ Proposed land uses
	Date of Filing of Preliminary Plat: _____ 45 Day Planning Commission action time limit _____ 60 Day Time Limit for Further Study and Action _____

**10 copies of Preliminary Plat, containing or accompanied by:**

- |   |
|---|
| 1. Name of subdivision, date, compass point, and legal description of the property being platted.   |
| 2. Scale of the plat on every plat sheet.   |
| 3. Names and addresses of the proprietor, of different than they owner.   |
| 4. Names and addresses of the proprietor's engineer or surveyor.  |
| 5. The existing buildings, railroads, utilities, and other rights-of-way.   |
| 6. Location, names, and widths of all existing and proposed roads, alleys, streets, and highways in or adjoining the area being subdivided.   |
| 7. Location and names of adjoining subdivisions as well as a list of proprietors within 200 feet of the property to be subdivided.  |
| 8. Proposed lot lines with approximate dimensions and the square foot area of each lot.   |
| 9. Areas dedicated for public use, such as schools, parks, playgrounds, recreational trails, or greenspace. A minimum citywide ratio of at least two acres of open space per 1,000 residents is maintained. |
| 10. Contour lines shown at intervals of two feet.   |
| 11. Building setback lines.   |
| 12. Boundaries of the proposed subdivision shall be indicated by a heavy black line.  |
| 13. Existing zoning of the proposed subdivision, as well as the existing zoning of the adjoining property or properties.  |
| 14. Proposed utility service for source of water supply.  |
| 15. Proposed utility service provision for sewage disposal, stormwater drainage, and flood control, if applicable.  |
| 16. A vicinity sketch at a legible scale showing the relationship of the Plat to its general surroundings.  |
| 17. Lots shall be numbered in a way that is acceptable to the County Auditor's office.  |
| 18. Existing and proposed easements showing widths and purposes of said easements.  |
| 19. If applicable, the regulatory flood elevation data limits of the 100-year floodplain boundaries, original and revised, must be shown.   |
| 20. Environmental studies may be required if a proposed subdivision is located in, or near, an environmentally sensitive area   |

**Accompanying Material:**

The proprietor shall also submit engineering documents regarding installation of the improvements with the preliminary plat.

Individual/Official	Report Attached?		Signature	Date
	Yes	No		
Applicant/Developer's Engineer				
City Engineer's Approval				
Zoning Administrator's Approval				
Public Works Director's Approval				
City Attorney's Approval				
Mayor's Approval				

**FINAL PLAT CHECKLIST FOR SUBDIVISIONS**

	Preliminary Plat Approval Date: _____			
	Date of Filing of Preliminary Plat: _____			
	45 Day Planning Commission action time limit _____			
	60 Day Time Limit for Further Study and Action _____			
<b>10 copies of Preliminary Plat, containing or accompanied by:</b>				
	1. Name of subdivision and proprietor.			
	2. Scale of the plat on every plat sheet.			
	3. Arrow indicating the northern direction.			
	4. Curve data including delta angle, length of arc, degree of curve and length, and direction of the chord.			
	5. Boundary lines of subdivided area with accurate distances, bearings, and boundary angles. The unadjusted error of closure shall not be greater than one in 10,000 for subdivision boundaries and shall not be greater than one in 5,000 for an individual lot. The areas of irregular lots within the plat shall be shown and may be expressed in either acres to the nearest one-hundredth acre, or square feet to the nearest 10 square feet.			
	6. Exact name, location, width, and designation of all streets within the subdivision. Additionally, alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and have the proposed use clearly designated			
	7. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage or access easements as are deemed necessary for the orderly development of the land encompassed within the plat. All such easements relative to their usage and maintenance shall be approved by the City Council prior to the recording of the plat.			
	8. Building setback lines with dimensions.			
	9. Legal description of the property being subdivided.			
	10. Lot numbers.			
	11. Certificate of Survey.			
	12. Description and location of all permanent monuments set in the subdivision, including ties to original Government corners.			
	13. A table that lists coordinate values for all property corners.			
<b>Accompanying Material:</b>				
	The documents required by Chapter 354.11 of the <i>Code of Iowa</i> .			
	A copy of any proposed restrictive covenants, which shall be submitted for the purpose of review and recommendation by the City Attorney.			
	Any dedication or easement to the City for any property intended for public use.			
Individual/Official	Report Attached?		Signature	Date
	Yes	No		
Applicant/Developer's Engineer				
City Engineer's Approval				
Zoning Administrator's Approval				
Public Works Director's Approval				
City Attorney's Approval				
Mayor's Approval				