

# CHAPTER 1

## CODE OF ORDINANCES

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**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Eldora, Iowa, 1999.

**1.02 DEFINITIONS.** Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

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 Eldora, Iowa.
3. “Clerk” means the city clerk of Eldora, 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 Eldora, Iowa, 1999.
6. “Council” means the city council of Eldora, Iowa.
7. “County” means Hardin County, Iowa.
8. “Measure” means an ordinance, amendment, resolution or motion.
9. “Month” means a calendar month.
10. “Oath” means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” are equivalent to the words “swear” and “sworn.”

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 "Ordinances" means the ordinances of the City of Eldora, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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. "Preceding" and "following" mean next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. "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.
21. "State" means the State of Iowa.
22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
23. "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.
24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.
25. "Year" means a calendar year.

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

*(Code of Iowa, Sec. 364.1)*

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

**1.05 PERSONAL INJURIES.** When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

*(Code of Iowa, Sec. 364.14)*

**1.06 RULES OF CONSTRUCTION.** In the construction of the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.
2. May. The word “may” confers a power.
3. Must. The word “must” states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender includes the feminine and neuter genders.
6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.
7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the 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.

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

*(Code of Iowa, Sec. 380.2)*

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

**1.09 ALTERING CODE.** It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper

with the Code of Ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

*(Code of Iowa, Sec. 718.5)*

**1.10 STANDARD PENALTY.** Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than the maximum amount allowed under Iowa Code §364.3, as may be amended from time to time, or imprisonment not to exceed the maximum amount allowed under Iowa Code §364.3, as may be amended from time to time.

*(Ord. 778 – Jun. 08 Supp.)*

*(Code of Iowa, Sec. 364.3[2])*

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

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## CHAPTER 2

# CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

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

**2.01 TITLE.** This chapter may be cited as the charter of the City of Eldora, 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.** 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 (5) Council Members elected at large for overlapping terms of four (4) years.

*(Code of Iowa, Sec. 376.2)*

**2.05 TERM OF MAYOR.** The Mayor is elected for a term of two (2) years.

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

### EDITOR'S NOTE

Ordinance No. 353 adopting a charter for the City was passed and approved by the Council on November 6, 1972.

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## CHAPTER 3

### BOUNDARIES

#### **3.01 CITY LIMITS.** The boundaries of the City are described as follows:

Beginning at the northeast corner of the Southeast quarter (SE $\frac{1}{4}$ ) of Section Five (5), in Township Eighty-seven (87) North, Range Nineteen (19), west of the 5th Principal Meridian of Iowa, thence running west two (2) miles, to the northwest corner of the Southwest quarter (SW $\frac{1}{4}$ ) of Section Six (6), thence South two (2) miles, to the southwest corner of the northwest quarter (NW $\frac{1}{4}$ ) of Section Eighteen (18), thence east two (2) miles, to the southeast corner of the Northeast quarter (NE $\frac{1}{4}$ ) of Section Seventeen (17), thence north two miles to the place of beginning; being a tract of land two (2) miles square, composed of the South half (S $\frac{1}{2}$ ) of Sections Five and Six (5 & 6) and all of Sections Seven and Eight (7 & 8) and the North Half (N $\frac{1}{2}$ ) of Sections Seventeen and Eighteen (17 & 18), all in Eldora Township, Hardin County, Iowa, and also the following tracts of land:

Beginning at the northeast corner of the South Half (S $\frac{1}{2}$ ) of the Northeast quarter (NE $\frac{1}{4}$ ) of Section Twelve (12), Township Eighty-seven (87) North, Range Twenty (20), West of the 5th Principal Meridian, Hardin County, Iowa, thence running west to the northwest corner of said tract of land, thence running south to the southwest corner of said tract of land, thence running east along the center of the highway, to the southeast corner of said tract of land, thence running north to the place of beginning; and beginning at the northeast corner of the Southeast quarter (SE $\frac{1}{4}$ ) of Section Twelve (12), Township Eighty-seven (87) North, Range Twenty (20), West of the 5th Principal Meridian, Hardin County, Iowa, thence running west along the center of the highway to the northwest corner of said tract of land, thence running south to the southwest corner of said tract of land, thence running east to the southeast corner of said tract of land, thence running north to the place of beginning, being the South Half of the Northeast Quarter (NE $\frac{1}{4}$ ) and the Southeast Quarter (SE $\frac{1}{4}$ ) of Section Twelve (12) Township Eighty-seven (87) North, Range Twenty (20), West of the 5th Principal Meridian, all in Pleasant Township, Hardin County, Iowa. (R.O. 1919; Sec. 20)

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## CHAPTER 4

### MUNICIPAL INFRACTIONS

4.01 Municipal Infraction  
4.02 Environmental Violation  
4.03 Penalties

4.04 Civil Citations  
4.05 Alternative Relief  
4.06 Criminal Penalties

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

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

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

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

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

**4.03 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.

*(Ord. 785 – Dec. 08 Supp.)*

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 one thousand dollars (\$1,000.00) for each day a violation exists or continues.

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

(1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

(2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.

(3) The violation does not continue in existence for more than eight (8) hours.

3. Scheduled Civil Penalties. Scheduled Civil Penalties may be imposed as set forth in this Code of Ordinances.

*(Ord. 830 – Oct. 14 Supp.)*

**4.04 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.

*(Ord. 797 – Aug. 10 Supp.)*

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

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

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

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

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## CHAPTER 5

### OPERATING PROCEDURES

5.01 Oaths  
5.02 Bonds  
5.03 Duties: General  
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  
5.12 Standing Committees

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

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

*(Code of Iowa, Sec. 63.1)*

2. Prescribed Oath. The prescribed oath is: “I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Eldora 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 office:

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the

Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*



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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

7. Definition of Meetings. "Meeting" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this section.

*(Ord. 772 – Oct. 07 Supp.)*

**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[1])*

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[2])*

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

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

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 contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

*(Code of Iowa, Sec. 362.5[5])*

5. Newspaper. The designation of an official newspaper.

*(Code of Iowa, Sec. 362.5[6])*

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[7])*

7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.

*(Code of Iowa, Sec. 362.5[8])*

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

*(Code of Iowa, Sec. 362.5[9])*

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

*(Code of Iowa, Sec. 362.5[4])*

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars (\$1500.00) in a fiscal year.

*(Code of Iowa, Sec. 362.5[10])*

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[12])*

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

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

**5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.**

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

*(Code of Iowa, Sec. 372.15)*

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish

notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. If the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

*(Ord. 834 – Oct. 14 Supp.)*

**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)*

## **5.12 STANDING COMMITTEES.**

1. Committees. At the organizational meeting of the Council after the regular municipal election for the position of Mayor, the Mayor shall appoint members to the following named standing committees.

- A. Public Safety.
- B. Streets and Alleys.
- C. Parks and Recreation.
- D. Utilities.
- E. Finance.
- F. Riverfront.
- G. Personnel.

2. Membership. Committees shall consist of not less than five (5) and not more than seven (7) members, with two (2) members of the committee selected from the currently serving membership of the City Council. Appointments of citizens to the committees shall be subject to final approval by the City Council by a majority vote of the Council.

3. Terms. The terms of a committee member shall run for the two (2) periods concurrent with the term of the Mayor who appointed them.

4. Replacement. If a citizen committee member resigns from a committee in the middle of a term of service on the committee, the

Mayor shall appoint a replacement at the next regular meeting of the City Council, subject to final approval of the appointment by a majority vote of the City Council.

5. Vacancies. If the Mayor cannot find a citizen appointment willing to serve or otherwise be approved by the City Council after three regular meetings from the time of a vacancy of a citizen position on a committee, City Council members shall have the power to nominate appointments for approval by majority vote of the City Council. This ability to nominate appointments after three regular meetings shall not abrogate the Mayor's power to make appointments as provided in this section. A standing committee may continue to operate without full membership.

6. Exceptions. The numerical limitations on committee membership established by this section shall not take effect until the first organizational meeting of the Council after the next regular municipal election held after the adoption of this ordinance by the City Council.

*(Ord. 772 – Oct. 07 Supp.)*

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## CHAPTER 6

### CITY ELECTIONS

6.01 Nominating Method to be Used

6.02 Nominations by Petition

6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit

6.05 Filing, Presumption, Withdrawals, Objections

6.06 Persons Elected

6.07 Precinct

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

**6.04 PREPARATION OF PETITION AND AFFIDAVIT.** Each eligible elector who signs a nominating petition shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition shall not sign it. Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the Secretary of State and shall include information required by the Code of Iowa.

*(Code of Iowa, Sec. 45.3)*

**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])*

**6.07 PRECINCT.** The City shall consist of one precinct. This designation is made pursuant to Chapter 49 of the Code of Iowa.

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## CHAPTER 7

# INDUSTRIAL PROPERTY TAX EXEMPTIONS

7.01 Purpose  
7.02 Definitions  
7.03 Period of Partial Exemption  
7.04 Amounts Eligible for Exemption  
7.05 Limitations

7.06 Applications  
7.07 Approval  
7.08 Exemption Repealed  
7.09 Dual Exemptions Prohibited

**7.01 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, distribution centers and the acquisition of or improvement to machinery and equipment assessed as real estate.

**7.02 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, except that actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from

the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

4. “New machinery and equipment assessed as real estate” means new machinery and equipment assessed as real estate pursuant to Section 427A.1, Subsection 1, Paragraph “e”, 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.

5. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

6. “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.

**7.03 PERIOD OF PARTIAL EXEMPTION.** The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, distribution centers, and the acquisition of or improvement to machinery and equipment assessed as real estate, is eligible to receive a partial exemption from taxation for a period of five (5) years.

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

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

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

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

**7.05 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)*

**7.06 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.

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

**7.08 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)*

**7.09 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)*

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**CHAPTER 8**  
**URBAN RENEWAL**

**EDITOR'S NOTE**

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

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
581	July 15, 1992
590	May 10, 1993
666	February 3, 1997
712	October 2, 2000
807	April 4, 2011

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**CHAPTER 9**  
**URBAN REVITALIZATION**

**EDITOR'S NOTE**

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

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
576	May 27, 1992
590	May 10, 1993
608	February 7, 1994
612	April 18, 1994
690	April 5, 1999
694	June 7, 1999
720	May 7, 2001
744	June 2, 2003

Ordinance No. 773, adopted September 10, 2007, amended Ordinances 576, 590, 608, 612, 690, 694, 694, 720 and 744, by removing the expiration date of the Urban Revitalization Plan and replacing it with:

“The Area will remain a designated revitalization area indefinitely.”

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## CHAPTER 10

### ELDORA AREA HEALTH CARE TRUST FUND

#### 10.01 Purpose

#### 10.02 Establishment of Eldora Area Health Care Trust Fund

#### 10.03 Purpose of Fund

#### 10.04 Deposits to the Trust Fund

#### 10.05 Expenditures for Health Care Purposes

#### 10.06 Unanimous Approval to Amend

**10.01 PURPOSE.** The purpose of this chapter is to establish the Eldora Area Health Care Trust Fund and to provide for its use.

**10.02 ESTABLISHMENT OF ELDORA AREA HEALTH CARE TRUST FUND.** There is hereby established by the City of Eldora and for its benefit, the Eldora Area Health Care Trust Fund ("the Trust Fund"). The Trust Fund shall be maintained, invested and accounted for in the same manner as other funds of the City, except as herein provided.

**10.03 PURPOSE OF FUND.** The funds or other assets credited to the Trust Fund shall be used for the purpose of maintaining and enhancing the health care of the citizens of Eldora. In furtherance of this purpose, funds or assets of the Trust Fund may be dedicated, spent, committed and used solely for maintaining and enhancing health care for the citizens of the Eldora area.

**10.04 DEPOSITS TO THE TRUST FUND.** The following funds shall be deposited by the City and credited to the Trust Fund:

1. The proceeds of settlement of litigation arising from the closure of the Eldora Regional Medical Center and Super Clinic, after payment of all costs, expenses and current indebtedness relating to the litigation or attributable to the Eldora Regional Medical Center;
2. The proceeds of any gifts, bequests or other funds received by the City which are designated for the Eldora Hospital or Eldora Regional Medical Center or provision of or relating to the provision of health care in the City;
3. Such other funds as the Council may, from time to time, determine should be credited to the Trust Fund.

**10.05 EXPENDITURES FOR HEALTH CARE PURPOSES.** Assets of the Trust Fund may be spent, pledged or used for health care purposes by only a vote of four out of five members of the City Council. The Council will provide for public hearing prior to any such expenditures in excess of \$50,000. The City Administrator, in consultation with the Council, may authorize

expenditures not to exceed \$5,000 relating directly to the maintenance and repair of the building housing the existing Eldora Area Clinic.

**10.06 UNANIMOUS APPROVAL TO AMEND.** The ordinance codified in this chapter may be amended only by a unanimous vote of all the members of the City Council, following public hearing and notice as required by law. The Council shall not suspend the three readings of the amending ordinance as required by law.

*(Ord. 750 – Jan. 04 Supp.)*

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## 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 (2) 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, except for supervisory duties delegated to the City Administrator, 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 fourteen 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 & 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 the Code of Ordinances and the laws of the State.
9. Licenses and Permits. Sign all licenses and permits which 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. Police Chief
3. Library Board of Trustees

**15.04 COMPENSATION.** The salary of the Mayor is twenty-four hundred dollars (\$2400.00) per year, payable quarterly.  
(*Code of Iowa, Sec. 372.13[8]*)

**15.05 VOTING.** The Mayor is not a member of the Council and may not vote as a member of the Council.  
(*Code of Iowa, Sec. 372.4*)

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## 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 Pro Tem is 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 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 fifteen (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])*

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## CHAPTER 17

### 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 (5) Council members elected at large for overlapping terms of four (4) 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. 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 which may be specially assessed.

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

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

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

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

*(Code of Iowa, Sec. 384.100)*

5. 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])*

6. 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 twenty-five thousand dollars (\$25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

2. Overriding Mayor's Veto. Within thirty (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 fourteen (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 fourteen (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. 380.4)*

**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 regular meetings of the Council are on the second Tuesday evening of each month at 6:00 p.m. in the Council Chambers at City Hall. If such day falls on a legal holiday or on a day when other events may conflict with the regularly scheduled Council meeting, the meeting is held on such day as may be determined by the Council.

*(Ord. 847 – Nov. 17 Supp.)*

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

*(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 (3) 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 Administrator
2. City Attorney
3. Planning and Zoning Commission
4. Arts Council
5. Theater Board
6. Airport Commission
7. Zoning Board of Adjustment
8. Tourism Board *(Ord. 719 – Apr. 01 Supp.)*

**17.06 COMPENSATION.** The salary of each Council member is twenty dollars (\$20.00) for each regular or special meeting of the Council attended, payable quarterly.

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

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## CHAPTER 18

### CITY CLERK

18.01 Appointment  
18.02 Powers and Duties: General  
18.03 Publication of Minutes  
18.04 Recording Measures  
18.05 Publication  
18.06 Authentication  
18.07 Certify Measures

18.08 Records  
18.09 Attendance at Meetings  
18.10 Issue Licenses and Permits  
18.11 Notify Appointees  
18.12 Elections  
18.13 City Seal

**18.01 APPOINTMENT.** The City Clerk is ex officio City Treasurer and has the duties, powers and functions prescribed in this chapter, by State law and other ordinances of the City. This City Clerk reports directly to the City Administrator.

*(Ord. 781 – Sep. 08 Supp.)*

*(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.** The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting 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 claim.

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

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 (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

*(Code of Iowa, Sec. 362.3[1])*

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.

*(Code of Iowa, Sec. 362.3[2])*

**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 CERTIFY MEASURES.** 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 (5) 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 eleven (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 & 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 which by ordinance and 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.** 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 ISSUE 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 NOTIFY APPOINTEES.** The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their position and the time at which they shall assume the duties of their office.

*(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*.

*(Ord. 834 – Oct. 14 Supp.)*

**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 which it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words “ELDORA, IOWA” and around the margin the words “CITY SEAL.”

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## CHAPTER 19

### CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer

**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.



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## 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 for a term of two (2) years. 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 which 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 which may be required for the use of the City.  
*(Code of Iowa, Sec. 372.13[4])*

## CHAPTER 21

### CITY ADMINISTRATOR

21.01 Appointment and Compensation  
21.02 Administrative Responsibility  
21.03 Powers and Duties Generally

21.04 Deputy City Clerk  
21.05 Residency Requirement  
21.06 City Attorney

**21.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Administrator to serve at the pleasure of the Council. The City Administrator shall receive such annual salary as the Council shall from time to time establish by resolution.

**21.02 ADMINISTRATIVE RESPONSIBILITY.** The City Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Administrator and all Council involvement in administration initiated by the Council must be coordinated through the City Administrator.

**21.03 POWERS AND DUTIES GENERALLY.** The powers and duties of the City Administrator include the following:

1. Responsibility for all accounting and accounting procedures for the City.
2. Administration of all ordinances, resolutions, Council policies, directives and procedures.
3. Continuous study of the City government's operating procedures, organizations and facilities and recommendation of fiscal and other policies to the Council whenever necessary.
4. Preparation and administration of the City's annual operating budget.
5. Supervision of City personnel and all City purchasing through the department heads.
6. Keeping the Council informed as to the progress of its programs and the status of its policies.
7. Coordination and direction of all City services provided through the various departments.

8. Study of possible joint arrangements with municipal boards and commissions, making recommendations for such arrangements as are mutually acceptable and coordinating these activities as agreed upon.
9. Assisting the Mayor in any duties as requested by the Mayor and as approved by the Council.
10. Assisting the Council and the Planning and Zoning Commission in the carrying out of the comprehensive plan and to assist in all other forms of planning within the City government.
11. Acting for the City in the exercise and execution of all policies and programs whereby the City is involved in a joint basis with any other governmental subdivision, agency or department.
12. Employment and removal of City employees in accordance with Council approved policies regarding pay, employment, and removal of such employees.

**21.04 DEPUTY CITY CLERK.** The City Administrator shall nominate for Council appointment a Deputy City Clerk to perform the duties of the Clerk in the City Administrator's absence and to perform such other duties assigned to the Deputy City Clerk.

**21.05 RESIDENCY REQUIREMENT.** The City Administrator shall reside within a ten-mile radius of the City.

**21.06 CITY ATTORNEY.** The City Attorney shall not be considered to be a department head for purposes of this chapter, and shall continue to be appointed by and be directly responsible to the Council.



## CHAPTER 22

### LIBRARY BOARD OF TRUSTEES

22.01 Public Library  
22.02 Library Trustees  
22.03 Qualifications of Trustees  
22.04 Organization of the Board  
22.05 Powers and Duties  
22.06 Contracting with Other Libraries

22.07 Nonresident Use  
22.08 Expenditures  
22.09 Annual Report  
22.10 Injury to Books or Property  
22.11 Theft  
22.12 Notice Posted

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

**22.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of seven (7) members. All members are to be appointed by the Mayor with the approval of the Council.  
*(Ord. 713 – Nov. 00 Supp.)*

**22.03 QUALIFICATIONS OF TRUSTEES.** Five (5) members of the Board shall be citizens and residents of the City. One (1) member of the Board shall be a citizen and rural resident of the Eldora-New Providence Community School District. One (1) additional member of the Board shall be a citizen and resident of either the City or the Eldora-New Providence Community School District. Members of the Board shall be eighteen (18) years of age or older.  
*(Ord. 713 – Nov. 00 Supp.)*

**22.04 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 six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years as terms expire, with two (2) Trustees being appointed in one year, three (3) Trustees being appointed the next biennial period and finally two (2) additional Trustees being appointed in the third biennial period.
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City, or of a rural member from the School District. Further, the position of any Trustee shall be vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled by appointment of the Mayor, such appointees to fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

*(Ord. 713 – Nov. 00 Supp.)*

**22.05 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.
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, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
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 on behalf of the Library.

*(Code of Iowa, Ch. 661)*

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.

**22.06 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 & 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 (5) 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 forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

**22.07 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.

**22.08 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 & 392.5)*

**22.09 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.

**22.10 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)*

**22.11 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)*

**22.12 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 (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) 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)*

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## CHAPTER 23

### PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission  
23.02 Term of Office  
23.03 Vacancies

23.04 Compensation  
23.05 Powers and Duties

**23.01 PLANNING AND ZONING COMMISSION.** There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

*(Code of Iowa, Sec. 414.6 & 392.1)*

**23.02 TERM OF OFFICE.** The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

*(Code of Iowa, Sec. 392.1)*

**23.03 VACANCIES.** If any vacancy exists on the Commission caused by resignation, or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee.

*(Code of Iowa, Sec. 392.1)*

**23.04 COMPENSATION.** All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

*(Code of Iowa, Sec. 392.1)*

**23.05 POWERS AND DUTIES.** The Commission shall have and exercise the following powers and duties:

1. Selection of Officers. The Commission shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability.

*(Code of Iowa, Sec. 392.1)*

2. Adopt Rules and Regulations. The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

*(Code of Iowa, Sec. 392.1)*

3. Zoning. The Commission shall have and exercise all the powers and duties and privileges in establishing the City zoning regulations and other related matters and may from time to time recommend to the Council amendments, supplements, changes or modifications, all as provided by Chapter 414 of the Code of Iowa.

*(Code of Iowa, Sec. 414.6)*

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

*(Code of Iowa, Sec. 392.1)*

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

*(Code of Iowa, Sec. 392.1)*

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

*(Code of Iowa, Sec. 392.1)*

7. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the City for City planning and zoning purposes.

*(Code of Iowa, Sec. 392.1)*

8. Limitation on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the Council for the present year.

*(Code of Iowa, Sec. 392.1)*

9. Annual Report. The Commission shall each year make a report to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

*(Code of Iowa, Sec. 392.1)*

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**CHAPTER 24**

**ELDORA REGIONAL**

**MEDICAL CENTER BOARD OF TRUSTEES**

**24.01 Purpose**

**24.02 Tenure of Office**

**24.03 Organization**

**24.04 Treasurer**

**24.05 Compensation; Expenses**

**24.06 Authority and Powers**

**24.01 PURPOSE.** The purpose of this chapter is to provide for the election of five (5) Trustees for the management, control and government of the Eldora Regional Medical Center.

**24.02 TENURE OF OFFICE.** The term of office of said Trustees shall be for four (4) years, and all of the present Trustees shall remain in office for their unexpired terms. The two (2) Trustees whose election was in 1996 shall serve two (2) year terms to provide for staggered terms.

**24.03 ORGANIZATION.** The said Trustees shall, at the first January meeting after their election, qualify by taking the oath of office and organize as a Board by the election of one of their number as Chairperson and one as Secretary, but no bond shall be required of them.

**24.04 TREASURER.** The Medical Center Board of Trustees shall annually select a Treasurer of said Board. The Treasurer shall give bond in a form and amount as determined by the Board in its discretion. The cost of said bond shall be paid by the Board of Trustees.

**24.05 COMPENSATION; EXPENSES.** No Trustee shall receive any compensation for his or her services performed, but each may receive reimbursement for any cash expenses actually made for personal expenses incurred as such Trustee. An itemized statement of all such expenses and moneys paid out shall be made under oath by each of such Trustees and filed with the Secretary and allowed only by the affirmative vote of the full Board.

**24.06 AUTHORITY AND POWERS.**

1. Entering into Contracts. The Board of Trustees may enter into contracts and agreements without review and approval by the Council where such contracts and agreements do not exceed twenty-four thousand nine hundred ninety-nine dollars (\$24,999.00). Any proposed contract or agreement in an amount equal to or in excess of twenty-five thousand dollars (\$25,000.00) must be reviewed and approved by the

Council. Any contract or agreement entered into in violation of this section shall be void and unenforceable. This subsection does not apply to hourly wage employees or to employment contracts.

2. Annual Budget Review. The Board of Trustees shall annually prepare and present a proposed budget for the Eldora Regional Medical Center to the Council for review and approval on or before February 1 of each calendar year. Any subsequent amendments to this budget must be reviewed and approved by the Council.

The power of said Trustees in all other respects shall be as provided in the Code of Iowa or any other authority as by law provided.

## CHAPTER 25

### ARTS COUNCIL

25.01 Purpose  
25.02 Mission  
25.03 Arts Council

25.04 Arts Council Board Qualifications  
25.05 Organization  
25.06 Powers and Duties

**25.01 PURPOSE.** The purpose of this chapter is to provide for the establishment of an Arts Council for the City, for the appointment of its Board members, and to specify its powers and duties.

**25.02 MISSION.** The mission of the Arts Council for the City is to identify, introduce and encourage visual and performing arts activities and humanities to the citizens of the area.

**25.03 ARTS COUNCIL.** There is hereby established the Iowa River Valley Arts and Humanities Council.

**25.04 ARTS COUNCIL BOARD QUALIFICATIONS.** The Arts Council Board shall consist of five (5) members from the area. The appointment of all Board members shall be made by the Council from names recommended by the Arts Council membership.

**25.05 ORGANIZATION.**

1. The term of office of each Board member shall be four (4) years except to fill vacancies. Each term shall commence on January 1. Appointments shall be made every two (2) years to stagger terms.
2. Vacancies shall be filled for the balance of any unexpired term in the same manner as original appointments were made.
3. The Arts Council Board members shall not receive any compensation for their services.

**25.06 POWERS AND DUTIES.** The Arts Council Board shall have the following powers and duties:

1. To meet and elect from its members a Chairperson, Vice Chairperson and Secretary-Treasurer.
2. To review programs to be supported by the Arts Council and to make recommendations to the City Council when deemed necessary by the Arts Council.

3. To set out policies, programs and procedures for carrying out the functions, duties and responsibilities of the Arts Council.
4. To review existing artistic and cultural programs and activities, but not to limit music, theater, dance, painting, sculpture, architecture and allied arts and crafts and ascertain those which should be brought to existence to better the cultural needs of the citizens within the Arts Council's jurisdiction.
5. To determine the legitimate, cultural and artistic needs and aspirations of citizens within the Arts Council's jurisdiction.
6. To stimulate and encourage the study and presentation of the performing and fine arts and public interest and participation therein.
7. To prepare a feasible budget for the implementation of programs to be supported by the Arts Council.
8. To submit an annual report to the City Council, including a financial report.
9. To allow the Council to conduct an audit of the Arts Council's finances upon a reasonable request by the City Council.
10. To expend such funds as appropriated by the City Council and to accept gifts, grants and bequests, and to expend the funds received from these sources as requested, if applicable, subject to the payment of actual and necessary expenses incurred in the performance of the duties of members of the Arts Council.
11. To keep a record of all meetings.

## CHAPTER 26

### THEATER BOARD

26.01 Purpose  
26.02 Theater Board  
26.03 Board Members

26.04 Theater Board Organization  
26.05 Powers and Duties  
26.06 Board Authority

**26.01 PURPOSE.** The purpose of this chapter is to provide for the establishment of a Theater Board for the City, for the appointment of its Board members, and to specify its powers and duties.

**26.02 THEATER BOARD.** There is hereby established the Eldora Theater Board.

**26.03 BOARD MEMBERS.** The Theater Board shall consist of five (5) members to be appointed by the Council. The appointment of all Board members shall be made by the Council from names recommended by the Theater Board.

#### **26.04 THEATER BOARD ORGANIZATION.**

1. The term of office of each Board member shall be four (4) years unless a vacancy shall occur, in which case the member appointed shall complete the term. Appointments shall be made every two (2) years as terms expire. The terms shall be staggered so that two (2) members are appointed in one biennial period and three (3) members shall be appointed in the next biennial period.
2. The removal of a Board member permanently from Hardin County, the resignation of a Board member, or the failure of a Board member to attend six (6) regular meetings of the Board during a calendar year shall render the Board member's seat vacant. Vacancies shall be filled for the balance of any unexpired term in the same manner as the original appointments were made.
3. The Theater Board members shall not receive any compensation for their services.

**26.05 POWERS AND DUTIES.** The Theater Board shall have the following powers and duties:

1. To meet and elect from its members a Chairperson, Vice Chairperson, and Secretary.

2. To serve as the public outlet for the Eldora Theater for fundraising, volunteer recruitment and retention, public interaction, and all other civic activities.
3. To review and recommend operational and capital improvement budgets for the Eldora Theater and present such recommendations to the City Council on or before February 1<sup>st</sup> of every year.
4. Monitor monthly financial documents and operational expenses.
5. To work with and recommend to the Theater Manager Practices, pricing and standards at the Theater.
6. To review and make recommendations on all applications for theater positions to the City Administrator and City Council. Upon the hiring of a theater manager the Theater Board shall also appoint two members to participate in the interview process in addition to the initial review and recommendation.

*(Ord. 784 – Nov. 08 Supp.)*

**26.06 BOARD AUTHORITY.** The Theater Board is advisory to the Council and the Council has final authority on decisions affecting the Theater, Theater operations and management. All employees at the Theater are classified as City employees, and ultimate authority over said employees continues to reside in the Council or as may be delegated by the Council. The Theater Board may enter into contracts and agreements of less than \$1,000 for ordinary business. All contracts and agreements \$1,000 and above require approval of the City Council. Any agreement or contract entered into in violation of this section shall be void and unenforceable.

*(Ord. 784 – Nov. 08 Supp.)*

## CHAPTER 27

### AIRPORT COMMISSION

27.01 Airport Commission  
27.02 Appointment and Term  
27.03 Vacancies  
27.04 Compensation

27.05 Bond  
27.06 Officers  
27.07 Powers and Duties  
27.08 Annual Report

**27.01 AIRPORT COMMISSION.** There shall be an airport commission consisting of five (5) resident voters of the City.

*(Code of Iowa, Sec. 330.20)*

**27.02 APPOINTMENT AND TERM.** Commissioners shall be appointed by the Council for staggered terms of six (6) years.

*(Code of Iowa, Sec. 330.20)*

**27.03 VACANCIES.** Vacancies shall be filled by appointment of the Council to fill out the unexpired term for which the appointment was made.

*(Code of Iowa, Sec. 330.20)*

**27.04 COMPENSATION.** Members of the commission shall serve without compensation.

*(Code of Iowa, Sec. 330.20)*

**27.05 BOND.** Each commissioner shall execute and furnish a bond in the amount of five hundred dollars (\$500.00) which bond shall be filed with the City Clerk.

*(Code of Iowa, Sec. 330.20)*

**27.06 OFFICERS.** The commission shall elect from its own members a chairperson and secretary who shall serve for such term as the commission shall determine.

*(Code of Iowa, Sec. 330.20)*

**27.07 POWERS AND DUTIES.** The commission shall have and exercise the following powers and duties.

1. General. The commission has all the powers in relation to airports granted to cities under State law except powers to sell the airport.

*(Code of Iowa, Sec. 330.21)*

2. Budget. The commission shall annually certify the amount of tax to be levied for airport purposes, and upon such certification the Council may include all or a portion of said amount in its budget.

*(Code of Iowa, Sec. 330.21)*

3. Funds. All funds derived from taxation or otherwise for airport purposes shall be under the full and absolute control of the commission for the purposes prescribed by law, and shall be deposited with the Treasurer or City Clerk to the credit of the airport commission, and shall be disbursed only on the written orders of the airport commission, including the payment of all indebtedness arising from the acquisition and construction of airports and the maintenance, operation, and extension thereof.

*(Code of Iowa, Sec. 330.21)*

**27.08 ANNUAL REPORT.** The airport commission shall immediately after the close of each municipal fiscal year, file with the City Clerk a detailed and audited written report of all money received and disbursed by the commission during said fiscal year, and shall publish a summary thereof in an official newspaper.

*(Code of Iowa, Sec. 330.22)*

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## CHAPTER 28

### TOURISM BOARD

28.01 Purpose  
28.02 Tourism Board  
28.03 Board Members

28.04 Tourism Board Organization  
28.05 Powers and Duties

**28.01 PURPOSE.** The purpose of this chapter is to provide for the establishment of a Tourism Board for the City, for the appointment of its Board members and to specify its powers and duties.

**28.02 TOURISM BOARD.** There is hereby established the Eldora Tourism Board.

**28.03 BOARD MEMBERS.** The Tourism Board shall consist of five (5) members to be appointed by the City Council. Names may be recommended from each of the following organizations: one (1) representative of the Eldora Area Chamber and Development Council; one (1) representative from the Greater Eldora Chamber of Commerce; one (1) representative from the Eldora City Council; and the remaining members from the Eldora area.

*(Ord. 724 – Jul. 01 Supp.)*

#### **28.04 TOURISM BOARD ORGANIZATION.**

1. The first appointed members will serve for the remainder of the 2001 calendar year. On January 1, 2002, the current Board will determine who will serve for the staggered terms of the two (2) members for two years and three (3) members for four (4) years.
2. The term of office of each Board member shall be four (4) years except to fill vacancies. Each term shall commence on January 1. Appointments shall be made every two (2) years as terms expire. The terms shall be staggered so that two (2) members are appointed in one biennial period and three (3) members shall be appointed in the next biennial period.
3. The Board shall meet a minimum of one time per month.
4. The removal of a Board member from Hardin County, the resignation of a Board member or the failure of a Board member to attend three (3) regular meetings of the Board during a calendar year shall render the Board member's seat vacant.
5. Vacancies shall be filled for the balance of any unexpired term in the same manner as original appointments made.

6. Board members shall not receive any compensation for their services.

*(Ord. 724 – Jul. 01 Supp.)*

**28.05 POWERS AND DUTIES.** The Tourism Board shall have the following powers and duties:

1. To meet and elect from its members a Chairperson, Vice Chairperson and Secretary-Treasurer.
2. To review programs and events to be supported by the Tourism Board and to make recommendations to the Council when deemed necessary by the Board.
3. To set policies, programs and procedures for carrying out the functions, duties and responsibilities of the Board.
4. To increase community knowledge of tourism opportunities in the Eldora area.
5. To increase use of Eldora area retail and tourism sites by expanding publicity efforts toward people visiting or passing through Eldora.
6. To improve the opportunity for Eldora retailers to capitalize on local events which attract visitors to the Eldora and Pine Lake area.
7. To prepare an annual report to the Council, including a financial report.
8. To prepare a feasible budget for the implementation of programs to be supported by the Board.
9. To expend such funds as appropriated by the Council and to accept gifts, grants and bequests, and to expend the funds received from these sources as requested. If applicable, subject to the payment of actual and necessary expenses incurred in the performance of the duties of the Board.
10. To keep a record of all meetings.

*(Ch. 28 - Ord. 718 – Apr. 01 Supp.)*

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## CHAPTER 29

### TREE BOARD

29.01 Purpose  
29.02 Tree Board  
29.03 Board Members

29.04 Board Organization  
29.05 Powers and Duties

**29.01 PURPOSE.** The purpose of this chapter is to provide for the establishment of a Tree Board for the City, for the appointment of its Board members and to specify its powers and duties.

**29.02 TREE BOARD.** There is hereby established the Eldora Tree Board.

**29.03 BOARD MEMBERS.** The Tree Board shall consist of five (5) members, all of whom shall be citizens and residents of the City, to be appointed by the Council.

**29.04 BOARD ORGANIZATION.** The term shall be four (4) years with one of the members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, the successor shall be appointed by the Mayor for the unexpired portion of the term.

**29.05 POWERS AND DUTIES.** The Tree Board shall have the following powers and duties”

1. The Board shall act as an advisory committee to the Council. The Board shall have the responsibility to study, investigate, counsel, develop and update a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such a plan will be presented to the Council and upon its acceptance and approval, shall constitute the official comprehensive City Tree Plan for the City. The City Tree Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.
2. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

*(Ch. 29 – Ord. 736 – Dec. 02 Supp.)*

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## CHAPTER 30

### POLICE DEPARTMENT

30.01 Department Established  
30.02 Organization  
30.03 Peace Officer Qualifications  
30.04 Required Training  
30.05 Compensation  
30.06 Peace Officers Appointed

30.07 Police Chief: Duties  
30.08 Departmental Rules  
30.09 Summoning Aid  
30.10 Taking Weapons  
30.11 Removal

**30.01 DEPARTMENT ESTABLISHED.** The police department of the City is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City.

**30.02 ORGANIZATION.** The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council.

**30.03 PEACE OFFICER QUALIFICATIONS.** In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

*(Code of Iowa, Sec. 80B.11)*

**30.04 REQUIRED TRAINING.** All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

*(Code of Iowa, Sec. 80B.11 [2])*

*(IAC, 501-3 and 501-8)*

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

**30.06 PEACE OFFICERS APPOINTED.** The Mayor shall appoint the Police Chief and the Mayor shall select, subject to the approval of Council, the other members of the department.

*(Code of Iowa, Sec. 372.4)*

**30.07 POLICE CHIEF: DUTIES.** The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.  
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

**30.08 DEPARTMENTAL RULES.** The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the Council, as may be necessary for the operation of the department.

**30.09 SUMMONING AID.** Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

**30.10 TAKING WEAPONS.** Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.

*(Code of Iowa, Sec. 804.18)*

**30.11 REMOVAL.** The Police Chief may be removed by the Mayor for cause in accordance with the provisions of Section 5.09 of this Code of Ordinances. Prior to the Mayor taking such action, the Mayor shall discuss the matter with the City Administrator.

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## 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 Fire Chief: Duties  
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  
35.15 Fees

**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 Fire Department consists of the Fire Chief, first and second Assistant Fire Chiefs and as many firemen as the Council may from time to time direct, but at no time less than sixteen (16).

*(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 attend and actively participate in regular or special training drills or programs as directed by the Chief.

*(Code of Iowa, Sec. 372.13[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, first and second Assistant Fire Chiefs and such other officers as its constitution and bylaws may provide, but the election of Fire Chief and Assistant Fire Chiefs 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 FIRE CHIEF: DUTIES.** 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 fire fighting 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 two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated

damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (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 which under law or ordinance may be necessary to be made and 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.

*(Code of Iowa, Sec. 100.4)*

12. Records. Cause to be kept records of the fire department personnel, fire fighting 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. Report to the Council at the first regular meeting in January of each year. Said report shall include the amount and condition of fire-fighting apparatus, equipment discarded during the year, and the disposition of the same, the number and kind of buildings in which fires occurred, the cause of fires and the total loss incurred, the names of members of the Fire Department in good standing on January 1, and the amount and source of revenues and the amount and purpose of expenditures for the Eldora Fire Department Trust Fund for the previous fiscal year. Such revenues and expenditures in the Eldora Fire Department Trust Fund shall be audited as part of the City's annual financial audit. The Council shall examine and approve such reports before the confirmation of the Fire Chief for the following year. The Fire Chief may recommend improvements to the Fire Department.

**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 fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters 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)*

**35.15 FEES.** Fees for fire fighting and other emergency assistance, including but not limited to response to hazardous conditions, hazardous substances and/or hazardous wastes, shall be established by resolution. Liability is hereby established for the fees and expenses in any person who is a property owner or

tenant of a property to which the Eldora Volunteer Fire Department responds. In addition, liability for fees and costs is hereby established in any person or persons who are responsible for the fire, emergency situation, hazardous condition, hazardous substance and/or hazardous waste to which the Fire Department is responding.

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## CHAPTER 36

### HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

**36.01 PURPOSE.** In order to reduce the danger to the public health, safety and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous substance spills within the City limits.

**36.02 DEFINITIONS.** For purposes of this chapter the following terms are defined:

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.

*(Code of Iowa, Sec. 455B.381[1])*

2. “Hazardous condition” means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.

*(Code of Iowa, Sec. 455B.381[4])*

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal

Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

*(Code of Iowa, Sec. 455B.381[5])*

4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

*(Code of Iowa, Sec. 455B.381[7])*

**36.03 CLEANUP REQUIRED.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

**36.04 LIABILITY FOR CLEANUP COSTS.** The responsible person shall be strictly liable for all of the following:

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.



2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

#### **36.05 NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Department of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Department shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Department, which shall then notify the Department of Natural Resources.

**36.06 POLICE AUTHORITY.** If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of any law enforcement officer issued under this section.

**36.07 LIABILITY.** The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].

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## CHAPTER 37

### AMBULANCE SERVICE

37.01 Ambulance Service  
37.02 Director  
37.03 Duties of Director  
37.04 Members  
37.05 Members Duties

37.06 Compensation of Members  
37.07 Insurance  
37.08 Ambulance Fees  
37.09 Payment  
37.10 Enforcement  
37.11 Ambulance Board

**37.01 AMBULANCE SERVICE.** The Eldora Ambulance Service is hereby established as an operation of the City. Emergency or non-emergency ambulance service shall be provided within the City limits and to the area surrounding Eldora. Emergency calls shall have priority over ambulance transfers of a non-emergency nature. Ambulance service provided pursuant to this chapter shall be at the advanced care level.

**37.02 DIRECTOR.** The service shall have a Director appointed by the City Administrator.

**37.03 DUTIES OF DIRECTOR.** The Director shall:

1. Command all operations of the service and be responsible for the supervision, care, maintenance and control of all vehicles and equipment of the service.
2. Establish and maintain service rules to carry out the requirements of this chapter. Selection and dismissal of service members shall occur according to the City Personnel Policy.
3. Keep all records or logs necessary or as required by law, make all reports necessary or as required by law and be responsible for the efficient administration of the service.
4. Maintain or cause to be maintained a record of the names, ages, residences and telephone numbers of ambulance service members, and be responsible for training programs, supervision of the service members and scheduling of service members for time of duty.
5. Maintain or cause to be maintained records of attendance at training sessions and investigate complaints brought to his or her attention concerning any phase of ambulance service.
6. Supervise the preparation of the ambulance service run sheets and submit them to the City Administrator at least once per month.

7. Report at least once per month to the City Administrator or designee the activities of the ambulance service.

**37.04 MEMBERS.** The service shall consist of at least five (5) members who shall be appointed by the Director subject to approval by the City Administrator. Candidates for ambulance service membership shall be required to pass a physical examination as may be required by the Director. Candidates for ambulance service membership shall be appointed provisionally upon their successful certification as an EMT-A. Tuition expense for training sessions of ambulance service members shall be provided by the City.

**37.05 MEMBERS DUTIES.** The ambulance service members shall report for duty upon call by the Director and shall be available for call at times scheduled by the Director. Members shall report to training as ordered by the Director and shall adhere to all service rules as promulgated.

**37.06 COMPENSATION OF MEMBERS.** The Director and members shall be compensated for their services by the City, from the Ambulance Service Fund, according to the rates established, from time to time, by the City Council by resolution.

**37.07 INSURANCE.** Sufficient insurance shall be carried by the ambulance service to protect the members and the City against loss from damages or public liability, in the amount determined by the City Council.

**37.08 AMBULANCE FEES.** The ambulance service shall charge such rates for services as well as late payment charges established from time to time, by the City Council by resolution.

**37.09 PAYMENT.** All ambulance fees and charges are due upon presentation of a statement by the City for said fees and charges and shall be paid to the City.

**37.10 ENFORCEMENT.** The City may cause a suit to be brought for the collection of any fees or charges due it for ambulance service provided in good faith.

**37.11 AMBULANCE BOARD.** The Ambulance Board shall be responsible for providing oversight, as well as management and direction of the Eldora Ambulance Service. The Ambulance Board shall consist of seven (7) members. Those seven members shall be selected as follows:

1. The Medical Director for the Eldora Ambulance Service;
2. Two (2) members of the Eldora Health Care Advisory Board;

3. Three (3) citizens of Eldora selected by the Mayor, which term shall be for two (2) years; and
4. One (1) member of the Council selected by the Mayor.

*(Ord. 775 – Dec. 07 Supp.)*

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## CHAPTER 40

### PUBLIC PEACE

40.01 Assault  
40.02 Harassment  
40.03 Disorderly Conduct

40.04 Unlawful Assembly  
40.05 Failure to Disperse  
40.06 Public Exposure  
40.07 Loud Motor Vehicle Stereo or Radio

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

1. Pain or Injury. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which 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 which 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])*

However, where the person doing any of the above 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 or serious injury or breach of the peace, the act is not an assault. Provided, where the person doing any of the above 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, the act is not an assault, 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, or writing 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 which is reasonably related to that sport.

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

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

*(Code of Iowa, Sec. 723.4 [2])*



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

*(Code of Iowa, Sec. 723.4 [3])*

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 [4])*

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 [5])*

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 a public offense.

*(Code of Iowa, Sec. 723.4 [6])*

7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

*(Code of Iowa, Sec. 723.4 [7])*

**40.04 UNLAWFUL ASSEMBLY.** It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

*(Code of Iowa, Sec. 723.2)*

**40.05 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)*

**40.06 PUBLIC EXPOSURE.** Except as hereinafter provided, no person shall expose those parts of his or her body hereinafter listed to another person in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person located in any public place.

1. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast feeding of a baby.
2. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This section does not apply to the limited or minimal exposures incidental to the use of public restrooms or locker rooms or such other places where such exposure occurs incident to the prescribed use of those facilities, and this section does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

**40.07 LOUD MOTOR VEHICLE STEREO OR RADIO.** No person shall operate any motor vehicle stereo (stereo, tape player, compact disc player, radio or any other sound amplified device) in a public place or on any public street, highway or alley in a loud and raucous manner. The provisions of this section may be enforced following personal observation/hearing of any police officer or upon receipt of a complaint made or filed with the Police Department by the person disturbed by such noise disturbance. The Police Chief or the Council may grant a temporary variance to this section to facilitate special events. The Police Chief is specifically authorized to revoke the granted variance if the applicant shall fail to meet any of the limitations placed upon the granting of the variance and/or other circumstances occurring subsequent to the granting of the variance requiring such revocation. *(Ord. 728 – Nov. 01 Supp.)*

## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances  
41.02 False Reports to or Communications with Public  
Safety Entities  
41.03 Refusing to Assist Officer  
41.04 Harassment of Public Officers and Employees  
41.05 Abandoned or Unattended Refrigerators

41.06 Antenna and Radio Wires  
41.07 Barbed Wire and Electric Fences  
41.08 Discharging Weapons  
41.09 Throwing and Shooting  
41.10 Urinating and Defecating  
41.11 Fireworks  
41.12 Providing False Identification Information

**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 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)*

**41.04 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)*

**41.05 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)*

**41.06 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])*

**41.07 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 ten (10) acres or more and is used as agricultural land.

**41.08 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB 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.

**41.09 THROWING AND SHOOTING.**

1. It is unlawful for a person to throw stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building, without a written permit from the Council.
2. All hunting through use of the above mentioned projectiles is prohibited within City limits without a written permit from the Council. For purposes of this section, "hunt" or "hunting" has the same meaning as under the laws of the State of Iowa.

3. Written permits, including hunting permits allowed under this section, may be approved and issued by the Council upon written application of a person seeking a permit. Any written application must identify the applicant by name, age, and residence, as well as provide confirmation of the applicant's right to lawfully possess and use the device for the purpose the applicant intends. The Council may issue a permit authorized under this section after reviewing the application or through an annually approved administrative procedure established for the purpose of approving hunting within City limits. The Council may place any restrictions it deems appropriate upon the permit, including restrictions based upon species, gender or age of animals to be hunted, geographic zones of the City, dates and times of day, and any other such limitations as may be desired by the Council. However, no permit shall be issued to any person who does not possess a license or permit otherwise required for the lawful possession and intended use of the device to be operated, whether such license or permit be required by local, State, or Federal law.

4. Nothing in this section shall be construed as authorizing discharge of weapons in violation of Section 41.08 of this Code of Ordinances. No permit issued under this section shall be deemed to authorize a person to hunt in a manner that would otherwise be in violation of local, State or Federal law.

*(Ord. 796 – Apr. 10 Supp.)*

**41.10 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.

**41.11 FIREWORKS.** The sale, use or exploding of fireworks within the City is subject to the following:

1. Definition. For purposes of this section, definitions are enumerated in the Iowa Code Section 727.2, 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 Fire Chief:

(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.

(3) Fire Inspection: Any property, building, or premise whether it be permanent or temporary, intended for the sale of consumer fireworks shall have an initial fire inspection completed by the Fire Chief prior to engaging in the sale of consumer fireworks. The Fire Chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Code 1124 (2006 Edition) and the current fire code adopted by the City of Eldora. Inspection costs shall be assessed as follows:

(i) Permanent structure where fireworks are sold – annual inspection fee of \$100.00.

(ii) Temporary or non-brick or mortar building where fireworks are sold – annual inspection fee of \$200.

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

(1) Approved consumer fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.

(2) Approved consumer fireworks sales meeting the requirements of this chapter 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 fireworks are sold:

(1) All transportation, storage, and sales of consumer fireworks shall conform to the safety standards set forth by the National Fire Protection Code 1124 (2006 Edition),

including but not limited to, those standards concerning separation distance requirements and aggregate weight limits.

(2) There shall be no more than 1000 lbs of 1.4G consumer fireworks on site at any temporary structure sales location.

(3) Any permanent structure used primarily for the purpose of consumer fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building.

(4) Any temporary structure having between 500 and 1000 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.

(5) Smoking, open flame source, or matches shall not be located within 50 feet where consumer fireworks are sold. The following exemptions apply:

(i) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where consumer fireworks are not the primary business.

(ii) Locations that engage in consumer fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.

(6) All electrical wiring shall meet NFPA 70 *National Electrical Code*. Permanent structures or buildings used primarily for consumer fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.

(7) Locations shall maintain a 48-inch clear aisles between consumer fireworks display shelves.

(8) Locations shall maintain two approved exits for egress during an emergency. All approved exits shall be

clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.

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

(10) Locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.

(11) 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 8 seconds.

(12) 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.

(13) 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. It is permitted to place containers in a security fenced area.

(14) 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.

(15) Consumer fireworks sales shall only be allowed in areas zoned for commercial use.

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

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



(18) 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 – Discharging General Requirements.

A. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) “Consumer fireworks” means first-class consumer fireworks and second-class consumer fireworks as those terms are defined in this subsection.

(2) “Display fireworks” means any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term “display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the American Pyrotechnics Association (APA) Standard 87-1.

(3) “First-class consumer fireworks” means the following consumer fireworks, as described in APA Standard 87-1, Chapter 3:

- a. Aerial shell kits and reloadable tubes.
- b. Chasers.
- c. Helicopter and aerial spinners.
- d. Firecrackers.
- e. Mine and shell devices.
- f. Missile-type rockets.
- g. Roman candles.
- h. Sky rockets and bottle rockets.
- i. Multiple tube devices set forth under this definition that are manufactured in accordance with APA Standard 87-1, Section 3.5.

(4) “Novelties” means all novelties, enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission. The term “novelties” includes party poppers, snappers, toy smoke devices, snakes and glow worms, and wire sparklers as defined in APA Standard 87-1, Section 3.2.

(5) “Second-class consumer fireworks” means the following consumer fireworks, as described in APA Standard 87-1, Chapter 3:

- a. Cone fountains.
- b. Cylindrical fountains.
- c. Flitter sparklers.
- d. Ground and handheld sparkling devices, including multiple tube ground and handheld sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5.
- e. Ground spinners.
- f. Illuminating torches.
- g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.
- h. Wheels.
- i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

B. Prohibitions. The use or exploding of consumer fireworks or display fireworks within the City limits is prohibited, unless a permit is properly obtained as set forth in Subsection (C) of this section. A violation of this section constitutes a municipal infraction and may be enforced according to the provisions of Chapter 4 of this ordinance.

C. Tenant. No tenant, party in possession or landlord shall permit, allow or engage in the use of explosion of consumer fireworks.

D. Permits. The City may, upon written application, grant a permit for the display of fireworks on private or public property by a City agency, fair associations, amusement parks, individual and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. The City may impose such restrictions on the permit as are necessary for public safety and welfare. The permit fee shall be set by resolution of the Council. No permit is required for the displaying of novelties.

*(Subsections A-D – Ord. 868 – Feb. 21 Supp.)*

4. Violations. All violations of any provisions of this chapter are hereby declared simple misdemeanors and/or municipal infractions. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the Fire Chief or Peace Officer. Fines shall be set by resolution of the City Council. Violations of this chapter shall be reported to the state fire marshal.

5. Exceptions. This section does not prohibit the sale by a 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.

*(Section 41.11 – Ord. 849 – Apr. 18 Supp.)*

**41.12 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.

*(Ord. 798 – Aug. 10 Supp.)*

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

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## 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

**42.01 TRESPASSING.** It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term “property” includes any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term “trespass” means one or more of the following acts:

*(Code of Iowa Sec. 716.7 and 716.8)*

1. Entering Property Without Permission. 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.

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

2. Entering or Remaining on Property. 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 by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

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

3. Interfering with Lawful Use of Property. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

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

4. Using Property Without Permission. 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.

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

None of the above shall be construed to prohibit 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.

*(Code of Iowa, Sec. 716.7(3))*

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

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

1. 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 liquor, wine, or beer. The provisions of this subsection do not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

*(Code of Iowa, Sec. 123.47[1A])*

2. Purchase, Consume, or Possess. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer 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, wine, and beer during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.

*(Code of Iowa, Sec. 123.47[2])*

3. Misrepresentation of Age. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee.

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

*(Ord. 835 – Oct. 14 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 which 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 liquor control 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 or simulate intoxication in a public place.
3. 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 62.07 of this Code of Ordinances.)*



## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

**46.01 CURFEW.** The Council has determined that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to reinforce the primary authority and responsibility of adults responsible for minors; to protect the public from the illegal acts of minors committed after the curfew hour; and to protect minors from improper influences and criminal activity that prevail in public places after the curfew hour.

1. Definitions. For use in this section, the following terms are defined:

A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

B. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. This is an objective standard. It shall, therefore, be no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

C. “Minor” means any unemancipated person under the age of eighteen (18) years.

D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for

other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.

2. Curfew Established. A curfew applicable to minors is established and shall be enforced as follows:

A. Hours Sunday Through Thursday, Under Age 15. It is unlawful for any minor under the age of fifteen (15) years to remain in or upon any public place in the City between the hours of eleven o’clock (11:00) p.m. and five o’clock (5:00) a.m. of the following morning Sunday through Thursday, official time.

B. Hours Friday Through Saturday, Under Age 15. It is unlawful for any minor under the age of fifteen (15) years to be or remain in or upon any public place in the City between the hours of twelve o’clock (12:00) midnight Friday and Saturday and five o’clock (5:00) a.m. on the following day, official time.

C. Hours Sunday Through Thursday, Ages 15 through 17. It is unlawful for any minor age fifteen (15) through seventeen (17) to remain in or upon any public place in the City between the hours of twelve o’clock (12:00) midnight and five o’clock (5:00) a.m. of the following morning Sunday through Thursday, official time.

D. Hours Friday Through Saturday, Ages 15 through 17. It is unlawful for any minor age fifteen (15) through seventeen (17) to be or remain in or upon any public place in the City between the

hours of one o'clock (1:00) a.m. and five o'clock (5:00) a.m. Saturday and Sunday, official time.

3. Exceptions. The following are exceptions to the curfew:
  - A. The minor is accompanied by a responsible adult.
  - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
  - C. The minor is present at or is traveling between home and one of the following:
    - (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within thirty (30) minutes after the end of work;
    - (2) Minor's place of religious activity or, if traveling, within thirty (30) minutes after the end of the religious activity;
    - (3) Governmental or political activity or, if traveling, within one hour after the end of the activity;
    - (4) School activity or, if traveling, within thirty (30) minutes after the end of the activity;
    - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within thirty (30) minutes after the end of the activity.
  - D. The minor is on an emergency errand for a responsible adult;
  - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the

City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a peace officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

D. Minor Without Adult Supervision. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the Police Chief shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result

in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a simple misdemeanor.

C. Minor's First Violation. In the case of a first violation by a minor, the peace officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a simple misdemeanor.

7. Notice. Notice of the ordinance codified in this section and its contents may be posted in or about such public or quasi-public places as may be designated by the Council or the Police Department in order that the public may be constantly informed of the existence of such ordinance and its regulations.

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under twenty-one (21) years of age to smoke, use, possess, purchase or attempt to purchase tobacco, tobacco products or cigarettes.

*(Ord. 860 – May 20 Supp.)*

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

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

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## 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 fires shall be built, except in a place provided therefor, 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 eleven o'clock (11:00) p.m. to five o'clock (5:00) 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.

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## CHAPTER 48

### SEX OFFENDERS

48.01 Purpose

48.02 Definitions

48.03 Residency Restricted

48.04 Exceptions

48.05 Municipal Infraction

**48.01 PURPOSE.** The purpose of this chapter is to provide for the safety and well being of all citizens of Eldora, Iowa, by prohibiting sex offenders and sexual predators from residing within two thousand (2,000) feet of a place of worship, public park, public playground, public library or school bus stop within the City of Eldora.

**48.02 DEFINITIONS.** For the purpose of this chapter the following shall be defined as shown herein:

1. “Places of worship” means a building or structure primarily used for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or other professional persons in the field of religion.
2. “Public library” means a room or building owned by the City of Eldora, Iowa, where a collection of books, periodicals, musical scores and similar materials are kept for reading or reference.
3. “Public park” means any area of land owned or rented by the City of Eldora, Iowa, or any other governmental entity set apart for the recreation of the public.
4. “Public playground” means any area of land owned by the City of Eldora, Iowa, or any other governmental entity used for outdoor games and recreation.
5. “Sex offender” means a person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense or other relevant offense that involved a minor as set out in Chapter 692A of the Code of Iowa.
6. “School bus stop” means a site designated and approved by the local school board for the purpose of loading and unloading school children.

**48.03 RESIDENCY RESTRICTED.** A sex offender shall not reside within two thousand (2,000) feet of the real property comprising a place of worship, public park, public playground, public library or a school bus stop.

**48.04 EXCEPTIONS.** A sex offender residing within two thousand (2,000) feet of the real property comprising a place of worship, public park, public playground, public library or a school bus stop does not commit a violation of this chapter if any of the following apply:

1. The sex offender is required to serve at a jail, prison, juvenile facility or other correctional institution or facility.
2. The sex offender is subject to an order of commitment under Chapter 229A of the Code of Iowa.
3. The sex offender has established a residence prior to the effective date of the ordinance codified by this chapter.
4. The sex offender is a minor or a ward under guardianship.

**48.05 MUNICIPAL INFRACTION.** A sex offender who resides within two thousand (2,000) feet of the real property comprising a place of worship, public park, public playground, public library or a school bus stop commits a municipal infraction, subject to penalty as set out in Chapter 4 of the Code of Ordinances of the City of Eldora, Iowa.

*(Ch. 48 – Ord. 761 – Mar. 06 Supp.)*

[The next page is 251]

## 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 Notice to Abate: Contents  
50.07 Method of Service

50.08 Request for Hearing  
50.09 Abatement in Emergency  
50.10 Abatement by City  
50.11 Collection of Costs  
50.12 Installment Payment of Cost of Abatement  
50.13 Failure to Abate  
50.14 Scheduled Civil Penalties

**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 which 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, which, 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, which 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 62.08)**

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. **(See also Chapter 152)**
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 one thousand (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.
13. Diminution in Value. Any condition or use of premises or of building exteriors, which is detrimental to the property of others, or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises is located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of lumber, junk, trash, debris or any abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers.

**50.03 OTHER CONDITIONS.** The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions which 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)**

**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. The creation or maintenance of a nuisance is a separate

and distinct violation or offense from a violation or offense caused by a failure to abate a nuisance after receipt of a notice to abate a nuisance. (*Ord. 830 – Oct. 14 Supp.*)  
(*Code of Iowa, Sec. 657.3*)

**50.05 NUISANCE ABATEMENT.** Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer may cause to be served upon the property owner a written notice of violation and notice to abate the nuisance within a reasonable time after notice. For purposes of this chapter, "property owner" includes, but is not limited to, a contract purchaser and a tenant. A failure to serve a tenant a notice to abate is not a defense by a title holder of record.

(*Ord. 830 – Oct. 14 Supp.*)

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

**50.06 NOTICE TO ABATE: CONTENTS.** The notice to abate shall contain: <sup>†</sup>

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. 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 such person.
6. Municipal Infraction. A statement that the creation and/or maintenance of the nuisance and the failure to abate the nuisance as directed can each be cited as a separate public offense or municipal infraction.
7. Scheduled Civil Penalty. If the nuisance is one for which a scheduled civil penalty exists, language substantially similar to the notice language set forth in Section 50.14(5) shall be included in the notice to abate.
8. Rights of Review. A statement of the owner's right of review under Section 50.08.

(*Ord. 830 – Oct. 14 Supp.*)

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<sup>†</sup> **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.

**50.07 METHOD OF SERVICE.** The notice may be in the form of an ordinance or sent by certified mail to, or personally served on, the property owner.

*(Ord. 754 – Oct. 04 Supp.)*

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

**50.08 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 frame stated in the notice for delivery of the request, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. In the event of a nuisance for which a scheduled civil penalty is imposed, a failure to request a hearing will result in an admission as set forth in Section 50.14(7). The hearing will be before the Council at the earliest reasonable opportunity and the person requesting the hearing will be informed in writing of the time and date via regular mail. Notice to the public of the hearing is not required by this Code of Ordinances.

*(Ord. 830 – Oct. 14 Supp.)*

**50.09 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 which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

**50.10 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])*

**50.11 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 (1) 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])*

**50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT.** If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (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)*

**50.13 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. Failure to abate said nuisance as prescribed by the notice shall be enough cause for removal of the junk or junk vehicle by the City. Abatement may include but shall not be limited to repair, removal, cleaning, extermination, cutting, mowing, securing, barricading or fencing.  
(*Ord. 854 – Oct. 19 Supp.*)

#### **50.14 SCHEDULED CIVIL PENALTIES.**

1. Creation or maintenance of the following nuisances shall be punishable by the following scheduled civil penalties for a first offense:

A.	50.02(2) Filth or Noisome Substance	\$75.00
B.	50.02(5) Blocking Public and Private Ways	\$75.00
C.	50.02(7) Storing of Flammable Junk	\$75.00
D.	50.02(9) & 152.04(2) Failure to Mow Grass	\$75.00
E.	50.02(13) Diminution in Value	\$75.00
F.	50.03(1) & 51.01(1) & 51.02 Junk	\$75.00
G.	50.03(1) & 51.01(2) & 51.02 Junk Vehicle	\$75.00
H.	50.03(3) & 105.03 Disposal of Garbage	\$75.00
I.	105.04 Health and Fire Hazard Garbage	\$75.00
J.	105.05 & 105.11(3) Burning of Garbage	\$75.00
K.	105.10(3) Garbage Container Placement	\$75.00
L.	105.10(5) Dumpster Placement	\$75.00

2. Creation or maintenance of the following nuisances shall be punishable by the following scheduled civil penalties for a second and subsequent offense committed within 365 days of the most recent violation of the same code section:

A.	50.02(2) Filth or Noisome Substance	\$250.00
B.	50.02(5) Blocking Public and Private Ways	\$250.00
C.	50.02(7) Storing of Flammable Junk	\$250.00
D.	50.02(9) & 152.04(2) Failure to Mow Grass	\$250.00
E.	50.02(13) Diminution in Value	\$250.00
F.	50.03(1) & 51.01(1) & 51.02 Junk	\$250.00
G.	50.03(1) & 51.01(2) & 51.02 Junk Vehicle	\$250.00
H.	50.03(3) & 105.03 Disposal of Garbage	\$250.00
I.	105.04 Health and Fire Hazard Garbage	\$250.00
J.	105.05 & 105.11(3) Burning of Garbage	\$250.00
K.	105.10(3) Garbage Container Placement	\$250.00
L.	105.10(5) Dumpster Placement	\$250.00

3. Every junk vehicle may be subject to a separate scheduled civil penalty. Each and every day a nuisance exists may also be subject to a separate scheduled civil penalty.

(*Subsections 1-3 – Ord. 848 – Nov. 17 Supp.*)

4. Before issuing a civil penalty in the manner set forth below, the Mayor or authorized municipal officer may attempt to resolve the nuisance violation by the issuance of an informal oral or written warning. The issuance of such a warning is not a prerequisite for the imposition of a scheduled civil penalty.

5. The City shall impose a scheduled civil penalty upon a property owner by including language substantially similar to the following language in its notice to abate issued under Section 50.06, with appropriate reference to amount of penalty and applicable code section:

#### NOTICE OF SCHEDULED CIVIL PENALTY

The creation or maintenance of the nuisance for which you have received this notice to abate nuisance carries a scheduled civil penalty of \$\_\_\_\_\_ under Section \_\_\_\_\_ of the Eldora Code of Ordinances. You may pay this penalty by making payment to the City Clerk at City Hall within 30 days of this Notice.

If you choose to contest this penalty or the issuance of this Notice, you must issue a written request for a hearing before the City Council within seven (7) days of the date of this Notice by delivering the written request to the City Clerk at City Hall. If you wish to continue to dispute the imposition of the civil penalty after the hearing held before the City Council, you must issue a written request for the filing of a municipal infraction in court. Such a request for the filing of a municipal infraction in court must be delivered within fifteen (15) days of the hearing to the City Clerk at City Hall. If you request the filing of a municipal infraction in court, an additional penalty of \$375.00 plus the original scheduled penalty amount and court costs will be imposed if the court ultimately finds you committed the violation.

A failure to include this language in the notice to abate is not a defense to the imposition of the scheduled civil penalty.

6. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the City Council as provided for under Section 50.08 by issuing a written request for such a hearing to the City Clerk at City Hall within seven (7) days of the date of the notice to abate. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the City Council, a written request for the filing of a municipal infraction in court must be delivered to the City Clerk at City Hall within fifteen (15) days of the hearing held before the City Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have created or maintained the nuisance which caused the imposition of the original scheduled civil penalty.

7. If a person subject to a scheduled civil penalty under this section does not request a hearing before the City Council or if said person does not request the filing of a municipal infraction in court after the hearing held before the City Council, said person will be deemed to have waived his or her right to dispute the finding of a violation and the scheduled civil penalty imposed



under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.

8. The 30 day time frame to pay the scheduled civil penalty imposed under this section will be stayed during any request for review by a person subject to the penalty. The request for review only stays the 30 day time frame and such a request will not restart the 30 day time frame. Once a person subject to the penalty is deemed to have waived his or her right to dispute the imposition of the penalty, the stay of the 30 day time frame ceases. If a person who waived his or her right to dispute the validity of the penalty fails to pay the scheduled civil penalty within the 30 day time frame, the City may seek court judgment for the penalty by filing a municipal infraction and adding an additional \$375.00 to the original scheduled civil penalty amount plus court costs and seek a judgment for the same.

9. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation issued thereunder if criminal penalties are also applicable for the violation, nor does this section preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means, including but not limited to alternative reliefs or remedies contemplated by this Code of Ordinances or state law.

*(Ord. 830 – Oct. 14 Supp.)*

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## 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

#### 51.06 Right to Entry

#### 51.07 Sale of Junk or Junk Vehicles

**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/or which has 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, door handle, bumper, hood, wheel, steering wheel, trunk lid, exhaust system, tail pipe, or drivers’ seat. *(Ord. 855 – Oct. 19 Supp.)*

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

D. Inoperable. Any motor vehicle which lacks an engine or one or more wheels, fuel tank, driveshaft, differential, generator, alternator, or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more. *(Ord. 855 – Oct. 19 Supp.)*

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

F. Has heavy growth of weeds or noxious vegetation over eighteen (18) inches in height under or immediately next to it.

G. Flammable Fuel. Any vehicle containing gasoline or any other flammable fuel.

H. Dangerous Vehicle. Any vehicle that has become a source of danger for children through entrapment in areas of confinement that cannot be opened from inside, through a danger of the vehicle falling or turning over, or through possible injury from exposed surfaces of metal, glass or other rigid materials.

*(Subsections F-H – Ord. 855 – Oct. 19 Supp.)*

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, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, van, sports utility vehicle, trailer, watercraft, boat, canoe, jet skis, aircraft, tractor, buggy, wagon, farm machinery or any combination thereof.

*(Ord. 855 – Oct. 19 Supp.)*

**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 including without limitation a garage, shed, barn or any other similar permanent structure with walls and ceiling designed for the storage of vehicles in a lawful

manner, and where the vehicle is not visible from the street or other public or private property.

2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

3. A vehicle which was recently involved in a collision shall not be deemed a junk vehicle unless the owner/operator of said vehicle fails to repair the damage within a reasonable period after said collision.

*(Subsections 1 & 3 – Ord. 855 – Oct. 19 Supp.)*

**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 (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

**51.06 RIGHT TO ENTRY.** The enforcement officer and any person designated by the enforcement officer to abate the nuisance pursuant to this code or court order, are hereby authorized access to any property upon which a junk vehicle is located for the purpose of carrying out any and all actions necessary to enforce this chapter. The City may abate such nuisance by causing the vehicle to be removed and impounded

*(Ord. 855 – Oct. 19 Supp.)*

**51.07 SALE OF JUNK OR JUNK VEHICLES.** If the City, in its sole discretion, determines that any junk or junk vehicles which it has removed from the property through abatement action can be sold to help defray the costs of the abatement, then the City may sell such property at public auction or at private sale and apply the proceeds realized from sale to the cost of abatement and the cost of sale.

*(Ord. 855 – Oct. 19 Supp.)*

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions  
55.02 Animal Neglect  
55.03 Livestock Neglect  
55.04 Abandonment of Cats and Dogs  
55.05 Livestock  
55.06 At Large Prohibited  
55.07 Owner's Responsibility  
55.08 Annoyance or Disturbance

55.09 Vicious Dogs  
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55.11 Owner's Duty  
55.12 Confinement  
55.13 Confinement of Animals in Heat  
55.14 At Large: Impoundment  
55.15 Disposition of Animals  
55.16 Impounding Costs  
55.17 Civil Enforcement Remedies and Alternative Relief

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

1. "Animal" means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
2. "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.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.  
*(Code of Iowa, Sec. 717.1)*
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

**55.02 ANIMAL NEGLECT.** It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

*(Code of Iowa, Sec. 717B.3)*

**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 which 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.** A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

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

**55.05 LIVESTOCK.** It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

**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 OWNER'S RESPONSIBILITY.**

1. 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.
2. Removal of Animal Feces. It is the duty of every person owning or having custody or control of an animal, to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person. This responsibility shall not apply to a person displaying an animal in a duly organized parade, upon public streets or to persons exhibiting animals at the County fair grounds.

*(Ord. 733 – Jun. 02 Supp.)*

**55.08 ANNOYANCE OR DISTURBANCE.**

1. It is unlawful for the owner of a dog or the resident of a property where a dog is allowed, to allow or permit such dog to cause serious annoyance or disturbance to any person or persons by howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles, or frequent and habitual disturbance to other domesticated animals which results in those animals themselves causing serious annoyance or disturbance.
2. The provisions of this section may be enforced following personal observation/hearing of any police officer or upon receipt of a complaint made and filed with the Police Department by the person disturbed by such dog.
3. It shall not be a defense to a violation of this section that the person charged or cited under this section was not present at the time of the disturbance if the animal was lawfully present on property controlled



by the person charged or cited under this section. It shall not be a defense to a violation of this section that the annoyance or disturbance was caused by the presence of a wild animal or a domesticated animal under the control of another unless that other person deliberately and intentionally instructed or allowed the domesticated animal to agitate or excite the dog causing the disturbance under charge or citation.

*(Ord. 791 – Aug. 09 Supp.)*

**55.09 VICIOUS DOGS.** It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

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

*(Code of Iowa, Sec. 351.33)*

**55.11 OWNER'S DUTY.** It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to 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)*

**55.12 CONFINEMENT.** When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it 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 two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

*(Code of Iowa, Sec. 351.39)*

**55.13 CONFINEMENT OF ANIMALS IN HEAT.** Every female dog or cat in heat shall be kept confined to the owner's property or in a veterinary hospital or boarding kennel so that such female dog or cat cannot come in contact with other animals except for intentional breeding purposes.

**55.14 AT LARGE: IMPOUNDMENT.** Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder. The City shall pick up and shelter any cat confined in a humane manner when said cat is not on its owner's property.

*(Ord. 717 – Apr. 01 Supp.)*

**55.15 DISPOSITION OF ANIMALS.** When an animal has been apprehended and impounded, written notice shall be given in not less than two days to the owner, if known. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner does not redeem the animal within seven days of the date of notice, or if the owner cannot be located within seven days, the animal may be humanely destroyed or otherwise disposed of in accordance with law.

*(Code of Iowa, Sec. 351.37, 351.41)*

**55.16 IMPOUNDING COSTS.** Impounding costs are established by resolution of the Council.

**55.17 CIVIL ENFORCEMENT REMEDIES AND ALTERNATIVE RELIEF.** If a police officer or other authorized enforcement officer has reason to believe any provision of Chapter 55 is being violated, the police officer is authorized to instruct such owner or resident who is present at the time of the investigation to take reasonable action to correct the violation. In the cases of a disturbance under Section 55.08, such instructions may include, but are not necessarily limited to, instructions to place the dog in the residence or another fully enclosed structure that is humane and habitable for the dog. A refusal to comply with the instructions of the police officer issued under this section may be cited as a municipal infraction with the right to alternative relief in addition to a civil penalty. Such alternative relief includes any action deemed necessary to correct the violation and prevent future violations. The remedies granted under this section are not exclusive and do not prohibit the City from utilizing other enforcement procedures authorized under law, including criminal sanctions.

*(Ord. 791 – Aug. 09 Supp.)*

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## CHAPTER 56

### ANIMAL LICENSES REQUIRED

56.01 Animal License Required  
56.02 License Fee  
56.03 Delinquency  
56.04 License Tags

56.05 License Records  
56.06 Immunization Tags  
56.07 Exemptions

#### **56.01 ANIMAL LICENSE REQUIRED.**

1. An animal is defined as a canine.
2. For purposes of this chapter, “owner” shall mean a person who occupies the same location the animal is kept and is a legal or equitable title holder of such property or lease holder of such property. An owner of an animal as defined shall obtain an annual license for each animal under their ownership on or before January 1<sup>st</sup> of each year. If an animal has more than one owner, only one license per animal is required, but each and every co-owner is jointly and severally liable for obtaining the license.
3. An initial license shall be procured within the later period of 30 days of when an animal has come into the possession of the owner or when the animal has reached the age of six (6) months. The license shall be obtained by filing an application with the City.
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, description and/or picture if available of the animal, the address where the animal is being kept, the address of the owner (if different), and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination and be accompanied by proof of said rabies vaccination. Said proof shall be made by certification of a licensed veterinarian. The application must also provide proof of current rabies vaccination for all dogs owned by the owner of the animal for which the license is sought.
5. All licenses shall expire January 1<sup>st</sup> of the after the date of vaccination expiration.
6. After April 30, a failure to obtain a license required by this chapter is punishable by both municipal infraction and as a public offense.
7. As of January 1<sup>st</sup>, 2012, this chapter shall be in effect.

**56.02 LICENSE FEE.** The annual license fee shall be as established by resolution of the City Council. The City Council may vary the license fee based on whether an animal is spayed or neutered. Any applicant claiming that an animal is spayed or neutered shall provide as evidence a certificate from a qualified veterinarian containing the name and address of the owner and the name, color, sex and breed of the animal.

**56.03 DELINQUENCY.** All license fees shall become delinquent after January 1<sup>st</sup> of each year and, commencing with the month of April, a delinquent penalty established by resolution shall be added to each unpaid license.

**56.04 LICENSE TAGS.** Upon receipt of the application and fee, the City shall record the rabies tag number as the City tag number and keep on file such number as proof of license and proof of rabies vaccination.

**56.05 LICENSE RECORDS.** The City shall keep a book or software program to be known as the record of licenses which shall show:

1. The rabies vaccination serial number and date of each application for a license.
2. The description of the animal as specified in the application, together with the name of the owner of the animal.
3. The date the animal shall be revaccinated.
4. Information on whether the animal has been spayed or neutered.
5. The amount of all fees paid.

**56.06 IMMUNIZATION TAGS.** A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog as stated in State Code 351.35 to be deemed property by the owner.

**56.07 EXEMPTIONS.** The following animals shall be exempt from the licensing requirements of this chapter:

1. Animals owned by a shelter that are for adoption or in preparation of adoption.
2. Animals while they are placed in the care of boarding services and are not kept as pets by the owners of the facility providing the boarding services.
3. Animals while they are placed in the care of training services and are not kept as pets by the owners of the facility providing the training services.

4. Animals that are the product of a licensed or permitted breeding program and are for sale or adoption within the first 6 months of the animal's life.

*(Ch. 56 – Ord. 805 – Mar. 11 Supp.)*

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## CHAPTER 60

### ADMINISTRATION OF TRAFFIC CODE

60.01 Title  
60.02 Definitions  
60.03 Administration and Enforcement  
60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports  
60.06 Peace Officer's Authority  
60.07 Obedience to Peace Officers  
60.08 Parades Regulated

**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Eldora 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 the territory contiguous to and including the following designated streets:
  - A. Washington Street from 11<sup>th</sup> Avenue to 14<sup>th</sup> Avenue.
  - B. 12<sup>th</sup> Street from 12<sup>th</sup> Avenue to 14<sup>th</sup> Avenue.
  - C. 14<sup>th</sup> Street from 12<sup>th</sup> Avenue to 14<sup>th</sup> Avenue.
  - D. 12<sup>th</sup> Avenue from 12<sup>th</sup> Street to 14<sup>th</sup> Street.
  - E. 14<sup>th</sup> Avenue from 12<sup>th</sup> Street to 14<sup>th</sup> Street.
  - F. Edginton Avenue from 12<sup>th</sup> Street to 14<sup>th</sup> Street.
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 forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (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 two hundred (200) feet in either direction from a school house.
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 Police Department.

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

**60.04 POWER TO DIRECT TRAFFIC.** A peace officer, and, 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 TRAFFIC ACCIDENTS: REPORTS.** 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 & 321.274)*



**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. "Parade" Defined. "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 Police Chief. 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 Fire Fighters. 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.

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## 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 Police Chief 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 Police Chief shall keep a record of all such traffic control devices.

*(Code of Iowa, Sec. 321.255)*

**61.02 CROSSWALKS.** The Police Chief is hereby authorized, subject to approval of the Council by resolution, 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 Police Chief is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of the City. Where such traffic lanes have been marked, it shall be 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)*

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## CHAPTER 62

### GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations  
62.02 Vehicles on Sidewalks  
62.03 Clinging to Vehicle  
62.04 Quiet Zones  
62.05 Funeral Processions  
62.06 Tampering with Vehicle

62.07 Open Containers in Motor Vehicles  
62.08 Obstructing View at Intersections  
62.09 Reckless Driving  
62.10 Careless Driving  
62.11 Engine Brakes and Compression Brakes  
62.12 Operating While Prohibited

**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. Section 321.20B — Proof of security against liability — driving without liability coverage.
2. Section 321.32 — Registration card, carried and exhibited; exception.
3. Section 321.37 — Display of plates.
4. Section 321.38 — Plates, method of attaching, imitations prohibited.
5. Section 321.79 — Intent to injure.
6. Section 321.98 — Operation without registration.
7. Section 321.174 — Operators licensed.
8. Section 321.174A — Operation of motor vehicles with expired license.
9. Section 321.180 — Instruction permits.
10. Section 321.180B — Graduated driver's licenses for persons aged fourteen through seventeen.
11. Section 321.193 — Restricted licenses.
12. Section 321.194 — Special minor's licenses.
13. Section 321.216 — Unlawful use of license and nonoperator's identification card.
14. Section 321.216B — Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

15. Section 321.219 — Permitting unauthorized minor to drive.
16. Section 321.220 — Permitting unauthorized person to drive.
17. Section 321.221 — Employing unlicensed chauffeur.
18. Section 321.222 — Renting motor vehicle to another.
19. Section 321.223 — License inspected.
20. Section 321.224 — Record kept.
21. Section 321.232 — Radar jamming devices; penalty.
22. Section 321.234A — All-terrain vehicles.
23. Section 321.247 — Golf cart operation on City streets.
24. Section 321.259 — Unauthorized signs, signals or markings.
25. Section 321.262 — Damage to vehicle.
26. Section 321.263 — Information and aid.
27. Section 321.264 — Striking unattended vehicle.
28. Section 321.265 — Striking fixtures upon a highway.
29. Section 321.275 — Operation of motorcycles and motorized bicycles.
30. Section 321.276 — Use of electronic communication device while driving; text-messaging.
31. Section 321.278 — Drag racing prohibited.
32. Section 321.281 — Actions against bicyclists.
33. Section 321.288 — Control of vehicle; reduced speed.
34. Section 321.295 — Limitation on bridge or elevated structures.
35. Section 321.297 — Driving on right-hand side of roadways; exceptions.
36. Section 321.298 — Meeting and turning to right.
37. Section 321.299 — Overtaking a vehicle.
38. Section 321.302 — Overtaking on the right.
39. Section 321.303 — Limitations on overtaking on the left.
40. Section 321.304 — Prohibited passing.
41. Section 321.307 — Following too closely.
42. Section 321.308 — Motor trucks and towed vehicles; distance requirements.

43. Section 321.309 — Towing; convoys; drawbars.
44. Section 321.310 — Towing four-wheel trailers.
45. Section 321.312 — Turning on curve or crest of grade.
46. Section 321.313 — Starting parked vehicle.
47. Section 321.314 — When signal required.
48. Section 321.315 — Signal continuous.
49. Section 321.316 — Stopping.
50. Section 321.317 — Signals by hand and arm or signal device.
51. Section 321.319 — Entering intersections from different highways.
52. Section 321.320 — Left turns; yielding.
53. Section 321.321 — Entering through highways.
54. Section 321.322 — Vehicles entering stop or yield intersection.
55. Section 321.323 — Moving vehicle backward on highway.
56. Section 321.324 — Operation on approach of emergency vehicles.
57. Section 321.329 — Duty of driver — pedestrians crossing or working on highways.
58. Section 321.330 — Use of crosswalks.
59. Section 321.332 — White canes restricted to blind persons.
60. Section 321.333 — Duty of drivers.
61. Section 321.340 — Driving through safety zone.
62. Section 321.341 — Obedience to signal of train.
63. Section 321.342 — Stop at certain railroad crossings; posting warning.
64. Section 321.343 — Certain vehicles must stop.
65. Section 321.344 — Heavy equipment at crossing.
66. Section 321.354 — Stopping on traveled way.
67. Section 321.359 — Moving other vehicle.
68. Section 321.362 — Unattended motor vehicle.
69. Section 321.363 — Obstruction to driver's view.

70. Section 321.364 — Preventing contamination of food by hazardous material.
71. Section 321.365 — Coasting prohibited.
72. Section 321.367 — Following fire apparatus.
73. Section 321.368 — Crossing fire hose.
74. Section 321.369 — Putting debris on highway.
75. Section 321.370 — Removing injurious material.
76. Section 321.371 — Clearing up wrecks.
77. Section 321.372 — School buses.
78. Section 321.381 — Movement of unsafe or improperly equipped vehicles.
79. Section 321.382 — Upgrade pulls; minimum speed.
80. Section 321.383 — Exceptions; slow vehicles identified.
81. Section 321.384 — When lighted lamps required.
82. Section 321.385 — Head lamps on motor vehicles.
83. Section 321.386 — Head lamps on motorcycles and motorized bicycles.
84. Section 321.387 — Rear lamps.
85. Section 321.388 — Illuminating plates.
86. Section 321.389 — Reflector requirement.
87. Section 321.390 — Reflector requirements.
88. Section 321.392 — Clearance and identification lights.
89. Section 321.393 — Color and mounting.
90. Section 321.394 — Lamp or flag on projecting load.
91. Section 321.395 — Lamps on parked vehicles.
92. Section 321.398 — Lamps on other vehicles and equipment.
93. Section 321.402 — Spot lamps.
94. Section 321.403 — Auxiliary driving lamps.
95. Section 321.404 — Signal lamps and signal devices.
96. Section 321.404A — Light-restricting devices prohibited.
97. Section 321.405 — Self-illumination.
98. Section 321.408 — Back-up lamps.



99. Section 321.409 — Mandatory lighting equipment.
100. Section 321.415 — Required usage of lighting devices.
101. Section 321.417 — Single-beam road-lighting equipment.
102. Section 321.418 — Alternate road-lighting equipment.
103. Section 321.419 — Number of driving lamps required or permitted.
104. Section 321.420 — Number of lamps lighted.
105. Section 321.421 — Special restrictions on lamps.
106. Section 321.422 — Red light in front.
107. Section 321.423 — Flashing lights.
108. Section 321.430 — Brake, hitch and control requirements.
109. Section 321.431 — Performance ability.
110. Section 321.432 — Horns and warning devices.
111. Section 321.433 — Sirens, whistles, and bells prohibited.
112. Section 321.434 — Bicycle sirens or whistles.
113. Section 321.436 — Mufflers, prevention of noise.
114. Section 321.437 — Mirrors.
115. Section 321.438 — Windshields and windows.
116. Section 321.439 — Windshield wipers.
117. Section 321.440 — Restrictions as to tire equipment.
118. Section 321.441 — Metal tires prohibited.
119. Section 321.442 — Projections on wheels.
120. Section 321.444 — Safety glass.
121. Section 321.445 — Safety belts and safety harnesses — use required.
122. Section 321.446 — Child restraint devices.
123. Section 321.449 — Motor carrier safety regulations.
124. Section 321.450 — Hazardous materials transportation.
125. Section 321.454 — Width of vehicles.
126. Section 321.455 — Projecting loads on passenger vehicles.
127. Section 321.456 — Height of vehicles; permits.

- 128. Section 321.457 — Maximum length.
- 129. Section 321.458 — Loading beyond front.
- 130. Section 321.460 — Spilling loads on highways.
- 131. Section 321.461 — Trailers and towed vehicles.
- 132. Section 321.462 — Drawbars and safety chains.
- 133. Section 321.463 — Maximum gross weight.
- 134. Section 321.465 — Weighing vehicles and removal of excess.
- 135. Section 321.466 — Increased loading capacity - reregistration.

*(Ord. 801 – Aug. 10 Supp.)*

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

**62.03 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.

**62.04 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.

**62.05 FUNERAL PROCESSIONS.** Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

*(Code of Iowa, Sec. 321.324A)*

**62.06 TAMPERING WITH VEHICLE.** It is unlawful for any person, either individually or in association with one or more other persons, to willfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

**62.07 OPEN CONTAINERS IN MOTOR VEHICLES.**

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

*(Code of Iowa, Sec. 321.284)*

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

*(Code of Iowa, Sec. 321.284A)*

As used in this section “passenger area” means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

**62.08 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.

**62.09 RECKLESS DRIVING.** No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

*(Code of Iowa, Sec. 321.277)*

**62.10 CARELESS DRIVING.** No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

*(Code of Iowa, Sec. 321.277A)*

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

**62.11 ENGINE BRAKES AND COMPRESSION BRAKES.**

1. It shall be unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud,

unusual or explosive noise from such vehicle. Violations of this section will be considered a non-moving violation.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

*(Ord. 725 – Jul. 01 Supp.)*

**62.12 OPERATING WHILE PROHIBITED.** Any person whose driver's license or operating privilege has been denied, canceled, suspended or revoked as provided in Chapter 321 of the Code of Iowa or as provided in Section 252J.8 or Section 901.5, Subsection 10 of the Code of Iowa, and who operates a motor vehicle upon the streets and highways of the City of Eldora, Iowa, while the license or privilege is denied, canceled, suspended or revoked commits a simple misdemeanor. Upon conviction of violation of this section, punishment shall include assessment of a fine of not less than \$250.00 nor more than the maximum fine amount allowed by Section 1.10 of the Eldora Code of Ordinances.

*(Ord. 778 – Jun. 08 Supp.)*

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## CHAPTER 63

### SPEED REGULATIONS

63.01 General  
63.02 State Code Speed Limits  
63.03 Parks and Parking Lots

63.04 Special Speed Restrictions  
63.05 Blocking Traffic

**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 — Twenty (20) miles per hour.
2. Residence or School District — Twenty-five (25) miles per hour.
3. Suburban District — Forty-five (45) miles per hour.

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

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

**63.04 SPECIAL SPEED RESTRICTIONS.** In accordance with requirements of the Iowa State 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)*

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On 12<sup>th</sup> Avenue from 9<sup>th</sup> Street to 12<sup>th</sup> Street.

B. On 11<sup>th</sup> Avenue from 9<sup>th</sup> Street to 12<sup>th</sup> Street.

C. On 9<sup>th</sup> Avenue from Washington Street to 14<sup>th</sup> Street.

*(Subsection C – Ord. 852 – Oct. 18 Supp.)*

2. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Washington Street from Fourteenth Avenue to Fifteenth Avenue;

3. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Fifteenth Avenue from the Chicago and Northwestern Railroad tracks to Twenty-first Street;

B. On Twenty-first Street from Edgington Avenue south;

C. On Edgington Avenue from 70 feet west of Eighteenth Street to 100 feet east of Tenth Street;

D. On Fourteenth Avenue (River Road) from Seventh Street east to City limits;

E. On Washington Street from Eleventh Avenue to 410 feet north of Third Avenue.

4. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Washington Street from Fifteen Avenue to Twenty-second Avenue.

5. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Edgington Avenue from 485 feet west of Twenty-fourth Street to 70 feet west of Eighteenth Street;

B. On Edgington Avenue from 100 feet east of Tenth Street to 300 feet east of Park Street;

- C. On Washington Street from 410 feet north of Third Avenue to north City limits.
- 6. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On Edgington Avenue from 200 feet west of the west City limits to 485 feet west of Twenty-fourth Street;
  - B. On Edgington Avenue from 300 feet east of Park Street to 500 feet east of the east City limits;
  - C. On Washington Street from Twenty-second Avenue to the south corporate limit.

*(Ord. 831 – Oct. 14 Supp.)*

**63.05 BLOCKING TRAFFIC.** No person shall drive a motor vehicle at such a slow speed or stop a vehicle in the traveled portion of the road so as to impede or block the normal and reasonable movement of traffic, except when reduced speed or stopping is necessary for safe operation, or in compliance with law.

*(Code of Iowa, Sec. 321.294)*

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## CHAPTER 64

### TURNING REGULATIONS

64.01 Authority to Mark  
64.02 U-turns

64.03 Left Turn for Parking

**64.01 AUTHORITY TO MARK.** Subject to the approval of the Council by resolution, the Police Chief 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 by the State law 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.

*(Code of Iowa, Sec. 321.311)*

**64.02 U-TURNS.** It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district, at the following designated intersections and at intersections where there are automatic traffic signals.

*(Code of Iowa, Sec. 321.236[9])*

1. At the intersection of Edgington Avenue and Sixth Street.

**64.03 LEFT TURN FOR PARKING.** No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

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## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Through Streets – Stop  
65.02 Stop Required  
65.03 Yield Required  
65.04 Stop Before Crossing Sidewalk

65.05 Stop When Traffic Is Obstructed  
65.06 Yield to Pedestrians in Crosswalks  
65.07 Official Traffic Controls  
65.08 School Zone

**65.01 THROUGH STREETS - STOP.** 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. Washington Street from the north City limits to the south City limits.
2. Edgington Avenue from the west City limits to the east City limits.

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

*(Code of Iowa, Sec. 321.345)*

1. Fourth Street. Vehicles traveling south on Fourth Street shall stop at Ninth Avenue.
2. Sixth Street. Vehicles traveling south on Sixth Street shall stop at Ninth Avenue.
3. Sixth Street. Vehicles traveling north on Sixth Street shall stop at Eleventh Avenue.
4. Seventh Street. Vehicles traveling north on Seventh Street shall stop at Ninth Avenue.
5. Seventh Street. Vehicles traveling on Seventh Street shall stop at Eleventh Avenue.
6. Seventh Street. Vehicles traveling south on Seventh Street shall stop at Fourteenth Avenue.
7. Seventh Street. Vehicles traveling north on Seventh Street shall stop at Seventeenth Avenue.
8. Eighth Street. Vehicles traveling north on Eighth Street shall stop at Eleventh Avenue.

9. Eighth Street. Vehicles traveling on Eighth Street shall stop at Fourteenth Avenue.
10. Ninth Street. Vehicles traveling north on Ninth Street shall stop at Ninth Avenue.
11. Tenth Street. Vehicles traveling on Tenth Street shall stop at Ninth Avenue.
12. Tenth Street. Vehicles traveling south on Tenth Street shall stop at Eleventh Avenue.
13. Tenth Street. Vehicles traveling north on Tenth Street shall stop at Twelfth Avenue.
14. Tenth Street. Vehicles traveling on Tenth Street shall stop at Fourteenth Avenue.
15. Tenth Street. Vehicles traveling on Tenth Street shall stop at Seventeenth Avenue.
16. Eleventh Street. Vehicles traveling on Eleventh Street shall stop at Ninth Avenue.
17. Eleventh Street. Vehicles traveling south on Eleventh Street shall stop at Eleventh Avenue.
18. Eleventh Street. Vehicles traveling north on Eleventh Street shall stop at Twelfth Avenue.
19. Eleventh Street. Vehicles traveling on Eleventh Street shall stop at Fourteenth Avenue.
20. Eleventh Street. Vehicles traveling on Eleventh Street shall stop at Seventeenth Avenue.
21. Twelfth Street. Vehicles traveling on Twelfth Street shall stop at Seventeenth Avenue.
22. Washington Street. Vehicles traveling on Washington Street shall stop at Eleventh Avenue.
23. Fourteenth Street. Vehicles traveling on Fourteenth Street shall stop at Fourteenth Avenue.
24. Fourteenth Street. Vehicles traveling on Fourteenth Street shall stop at Fifteenth Avenue.
25. Fourteenth Street. Vehicles traveling south on Fourteenth Street shall stop at Sixteenth Avenue.

26. Fifteenth Street. Vehicles traveling on Fifteenth Street shall stop at Seventh Avenue.
27. Sixteenth Street. Vehicles traveling on Sixteenth Street shall stop at Seventh Avenue.
28. Sixteenth Street. Vehicles traveling south on Sixteenth Street shall stop at Eleventh Avenue.
29. Eighteenth Street. Vehicles traveling on Eighteenth Street shall stop at Fourteenth Avenue.
30. Nineteenth Street. Vehicles traveling on Nineteenth Street shall stop at Twelfth Avenue.
31. Nineteenth Street. Vehicles traveling on Nineteenth Street shall stop at Fourteenth Avenue.
32. Seventh Avenue. Vehicles traveling east on Seventh Avenue shall stop at Twelfth Street.
33. Seventh Avenue. Vehicles traveling on Seventh Avenue shall stop at Fourteenth Street.
34. Eighth Avenue. Vehicles traveling on Eighth Avenue shall stop at Twelfth Street.
35. Eighth Avenue. Vehicles traveling on Eighth Avenue shall stop at Fourteenth Street.
36. Eighth Avenue. Vehicles traveling on Eighth Avenue shall stop at Fifteenth Street.
37. Eighth Avenue. Vehicles traveling west on Eighth Avenue shall stop at Sixteenth Street.
38. Ninth Avenue. Vehicles traveling on Ninth Avenue shall stop at Twelfth Street.
39. Ninth Avenue. Vehicles traveling on Ninth Avenue shall stop at Fourteenth Street.
40. Ninth Avenue. Vehicles traveling on Ninth Avenue shall stop at Fifteenth Street.
41. Ninth Avenue. Vehicles traveling west on Ninth Avenue shall stop at Sixteenth Street.
42. Tenth Avenue. Vehicles traveling west on Tenth Avenue shall stop at Twelfth Street.

43. Eleventh Avenue. Vehicles traveling on Eleventh Avenue shall stop at Tenth Street.
44. Eleventh Avenue. Vehicles traveling on Eleventh Avenue shall stop at Twelfth Street.
45. Eleventh Avenue. Vehicles traveling on Eleventh Avenue shall stop at Fourteenth Street.
46. Eleventh Avenue. Vehicles traveling on Eleventh Avenue shall stop at Fifteenth Street.
47. Twelfth Avenue. Vehicles traveling east on Twelfth Avenue shall stop at Sixth Street.
48. Twelfth Avenue. Vehicles traveling on Twelfth Avenue shall stop at Eighth Street.
49. Twelfth Avenue. Vehicles traveling on Twelfth Avenue shall stop at Tenth Street.
50. Twelfth Avenue. Vehicles traveling on Twelfth Avenue shall stop at Twelfth Street.
51. Twelfth Avenue. Vehicles traveling on Twelfth Avenue shall stop at Fourteenth Street.
52. Twelfth Avenue. Vehicles traveling on Twelfth Avenue shall stop at Fifteenth Street.
53. Fourteenth Avenue. Vehicles traveling on Fourteenth Avenue shall stop at Twelfth Street.
54. Fourteenth Avenue. Vehicles traveling on Fourteenth Avenue shall stop at Fifteenth Street.
55. Fourteenth Avenue. Vehicles traveling on Fourteenth Avenue shall stop at Twenty-first Street.
56. Fourteenth Avenue. Vehicles traveling on Fourteenth Avenue shall stop at Twenty-second Street.
57. Fourteenth Avenue. Vehicles traveling on Fourteenth Avenue shall stop at Twenty-third Street.
58. Fourteenth Avenue. Vehicles traveling west on Fourteenth Avenue shall stop at Twenty-fourth Street.
59. Fifteenth Avenue. Vehicles traveling east on Fifteenth Avenue shall stop at Tenth Street.
60. Fifteenth Avenue. Vehicles traveling on Fifteenth Avenue shall stop at Eleventh Street.

61. Fifteenth Avenue. Vehicles traveling on Fifteenth Avenue shall stop at Twelfth Street.
62. Fifteenth Avenue. Vehicles traveling on Fifteenth Avenue shall stop at Fifteenth Street.
63. Fifteenth Avenue. Vehicles traveling on Fifteenth Avenue shall stop at Twenty-first Street.
64. Fifteenth Avenue. Vehicles traveling on Fifteenth Avenue shall stop at Twenty-fourth Street.
65. Sixteenth Avenue. Vehicles traveling on Sixteenth Avenue shall stop at Tenth Street.
66. Sixteenth Avenue. Vehicles traveling on Sixteenth Avenue shall stop at Eleventh Street.
67. Sixteenth Avenue. Vehicles traveling on Sixteenth Avenue shall stop at Fifteenth Street.
68. Seventeenth Avenue. Vehicles traveling east on Seventeenth Avenue shall stop at Fourteenth Avenue (River Road).
69. Seventeenth Avenue. Vehicles traveling on Seventeenth Avenue shall stop at Fifteenth Street.
70. Rick Collins Way. Vehicles traveling on Rick Collins Way shall stop at Twenty-first Street.
71. Rick Collins Way. Vehicles traveling on Rick Collins Way shall stop at Twenty-fourth Street.
72. Eighteenth Avenue. Vehicles traveling east on Eighteenth Avenue shall stop at Tenth Street.
73. Eighteenth Avenue. Vehicles traveling on Eighteenth Avenue shall stop at Eleventh Street.
74. Eighteenth Avenue. Vehicles traveling on Eighteenth Avenue shall stop at Twelfth Street.
75. Eighteenth Avenue. Vehicles traveling on Eighteenth Avenue shall stop at Fifteenth Street.
76. Nineteenth Avenue. Vehicles traveling east on Nineteenth Avenue shall stop at Tenth Street.
77. Nineteenth Avenue. Vehicles traveling on Nineteenth Avenue shall stop at Twelfth Street.
78. Nineteenth Avenue. Vehicles traveling on Nineteenth Avenue shall stop at Fifteenth Street.

79. Twentieth Avenue. Vehicles traveling on Twentieth Avenue shall stop at Fifteenth Street.
80. Twenty-first Avenue. Vehicles traveling west on Twenty-first Avenue shall stop at Fifteenth Street.
81. Twenty-second Avenue. Vehicles traveling on Twenty-second Avenue shall stop at Fourteenth Street.
82. Twenty-second Avenue. Vehicles traveling west on Twenty-second Avenue shall stop at Fifteenth Street.
83. Twenty-third Avenue. Vehicles traveling west on Twenty-third Avenue shall stop at Fifteenth Street.
84. Eighteenth Street. Vehicles traveling southbound on Eighteenth Street shall stop at Fourteenth Avenue.
85. Nineteenth Street. Vehicles traveling southbound on Nineteenth Street shall stop at Fourteenth Avenue.
86. Twentieth Street. Vehicles traveling southbound on Twentieth Street shall stop at Fourteenth Avenue.
87. Ninth Street. Vehicles traveling northbound and southbound on Ninth Street shall stop at Twelfth Avenue.
88. Ninth Street. Vehicles traveling northbound and southbound on Ninth Street shall stop at Eleventh Avenue.
89. Ninth Street. Vehicles traveling northbound on Ninth Street shall stop at Ninth Avenue.
90. Fourteen Avenue. Vehicles traveling on Fourteenth Avenue shall stop at Eighth Street.
91. Fifteenth Avenue. Vehicles traveling on Fifteenth Avenue shall stop at Twelfth Street.
92. 24<sup>th</sup> Street. All vehicles traveling on Twenty-fourth Street must stop at Rick Collins Way.
93. 12<sup>th</sup> Street. All vehicles traveling north or south on Twelfth Street must stop at Eleventh Avenue.
94. 12<sup>th</sup> Street. All vehicles traveling on Twelfth Street must stop at Fourteenth Avenue.

*(Subsections 47-94 – Ord. 838 – Oct. 15 Supp.)*

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

*(Code of Iowa, Sec. 321.345)*



1. Eleventh Avenue. Vehicles traveling east on Eleventh Avenue shall yield at Park Street.

**65.04 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)*

**65.05 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.

**65.06 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)*

**65.07 OFFICIAL TRAFFIC CONTROLS.** Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

*(Code of Iowa, Sec. 321.256)*

1. Intersection of Washington Street and Edgington Avenue.

**65.08 SCHOOL ZONES.**

1. A school zone is established on Edgington Avenue at Tenth Street. A movable stop sign shall be placed at the intersection, which directs east and westbound traffic to stop at Tenth Street, prior to the beginning of the school day and at the end of the school day, on days when school is in session during the regular school year.

A. Edgington Avenue. Vehicles traveling on Edgington Avenue shall stop at Tenth Street during the hours when a movable stop sign has been placed at the intersection.

*(Ord. 709 – Aug. 00 Supp.)*

2. *(Repealed by Ord. 813 – Apr. 12 Supp.)*

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## CHAPTER 66

### LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo  
66.02 Permits for Excess Size and Weight  
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges  
66.05 Truck Route

**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 Police Chief may, upon application and good cause being shown therefor, 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.1)*

**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 -

**66.04 LOAD LIMITS ON BRIDGES.** Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Police Chief may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

*(Code of Iowa, Sec. 321.473)*

**66.05 TRUCK ROUTE.** Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing four (4) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

*(Code of Iowa, Sec. 321.473)*

- A. Twenty-third Avenue from Washington Street to Fifteenth Street.
- B. Twenty-second Avenue from Washington Street to Fifteenth Street.
- C. Twenty-first Avenue from Washington Street to Fifteenth Street.
- D. Fifteenth Street from Twenty-first Avenue to Twenty-third Avenue.
- E. Fourteenth Street from Twenty-first Avenue to Twenty-second Avenue.
- F. Nineteenth Avenue from Washington Street east to the end of Nineteenth Avenue.
- G. Eighteenth Avenue from Washington Street east to the end of Eighteenth Avenue.
- H. Fourteenth Street from Edgington Avenue to Seventh Avenue.
- I. Seventh Avenue from Fourteenth Street to Seventeenth Street.
- J. Eleventh Avenue from Fourteenth Street to Nineteenth Street.
- K. Twelfth Avenue from Fourteenth Street to Twenty-first Street.
- L. Nineteenth Street from Eleventh Avenue to Twelfth Avenue.
- M. Twenty-first Street from Twelfth Avenue south to the end of Twenty-first Street.
- N. Fifteenth Avenue from the Chicago and Northwestern Railroad tracks to Twenty-first Street.
- O. Seventeenth Street from Seventh Avenue to Fifth Avenue.

2. Deliveries Off Truck Route. Any motor vehicle weighing four (4) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

*(Code of Iowa, Sec. 321.473)*

3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

*(Code of Iowa, Sec. 321.473)*

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## CHAPTER 67

### PEDESTRIANS

67.01 Walking in Street  
67.02 Hitchhiking

67.03 Pedestrian Crossing  
67.04 Use 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 SIDEWALKS.** Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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## 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])*

1. 9<sup>th</sup> Street from 11<sup>th</sup> Avenue to 12<sup>th</sup> Avenue shall travel in a north to south direction. *(Ord. 782 – Oct. 08 Supp.)*

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## CHAPTER 69

### PARKING REGULATIONS

69.01 Park Adjacent to Curb  
69.02 Park Adjacent to Curb - One-way Street  
69.03 Angle Parking  
69.04 Angle Parking - Manner  
69.05 Parking for Certain Purposes Illegal  
69.06 Parking Prohibited  
69.07 Persons With Disabilities Parking  
69.08 No Parking Zones

69.09 All Night Parking Prohibited  
69.10 Truck Parking Limited  
69.11 Parking Limited to Thirty Minutes  
69.12 Parking Limited to Fifteen Minutes  
69.13 Snow Removal  
69.14 Snow Routes  
69.15 Trailers

**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 eighteen (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 PARK ADJACENT TO CURB - ONE-WAY STREET.** 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 eighteen (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. Fourteenth Avenue, on both sides, between Washington Street and Twelfth Street;
2. Twelfth Street, on both sides, between Fourteenth Avenue and Edgington Avenue;
3. Twelfth Street, on the west side, from Twelfth Avenue to Edgington Avenue;
4. Fifteenth Avenue, on the north side, from Washington Street west one half block to the alley;
5. Eleventh Street, on the west side, from Edgington Avenue to Fourteenth Avenue;

6. Fourteenth Avenue, on the north side, from Eleventh Street to Twelfth Street.

*(Subsections 4-6 – Ord. 869 – Feb. 21 Supp.)*

**69.04 ANGLE PARKING - MANNER.** Upon those streets or portions of streets which 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 parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (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 seventy-two (72) hours 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 twenty (20) feet on either side of a mailbox which 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, or within ten (10) feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358 [3])*
7. Fire Hydrant. Within five (5) feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358 [4])*
8. Stop Sign or Signal. Within ten (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 fifty (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. EMS Station. Along the north side of 15<sup>th</sup> Avenue, west of 12<sup>th</sup> Street from thirteen feet west of 12<sup>th</sup> Street to seventy three feet west of 12<sup>th</sup> Street and the four spaces directly north of the EMS station in the parking lot shall be restricted to emergency responders only so that they may, during the course of emergency response, training, or working on behalf of the City, park and control their ability to enter and exit the EMS station.  
*(Ord. 871 – Feb. 21 Supp.)*
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 fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (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 ten (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 shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided 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. 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.

19. City Parking Lot on Block 17 of the Original Town Plat Behind the Fire Station. The parking lot shall allow 90 degree parking. Starting from the northwest corner of the lot, a no parking area shall be designated 26 feet east and 12 feet south. The east/west running alleyway directly to the north shall also be designated no parking allowed for 26 feet.

*(Ord. 829 – Oct. 14 Supp.)*

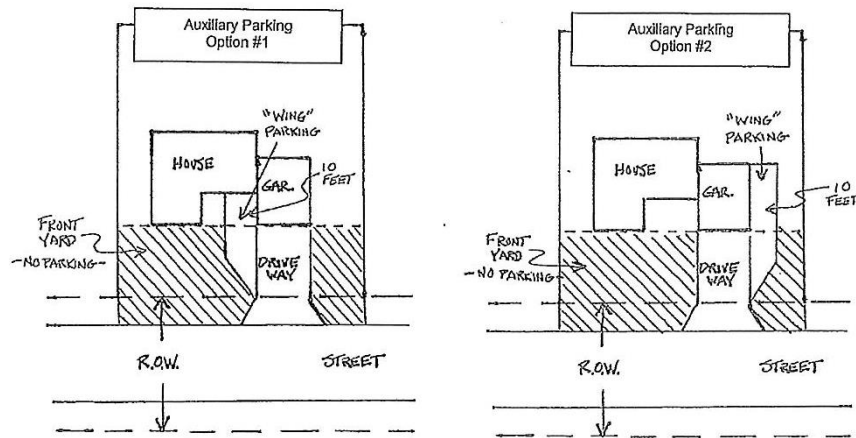
20. Auxiliary Parking.

A. Within all residential districts there shall be no parking in front yards, except on a surfaced driveway or auxiliary parking area. Surfed driveways and auxiliary parking areas shall be hard surfaced or 1" road stone.

B. A driveway is considered the surfaced portion of the yard no wider than the width of the garage.

C. Additional parking of vehicles is permitted on a surfaced area or "wing" off to the side of a driveway. An auxiliary surfaced parking or driveway "wing" is permitted on one side of the driveway, but not on both sides.

D. Auxiliary "wing" parking shall be no more than ten feet (10 ft) in width and shall not encroach into the right of way.



(Ord. 840 – Oct. 15 Supp.)

**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. Designated Spaces. The following areas are persons with disabilities parking spaces:

A. In the parking lots located on the corner of Fourteenth Avenue and Fourteenth Street, the first two (2) parking spaces in the center zone on the north end.

B. Twelfth Street, on the west side, beginning at sixty-two (62) feet south of Edgington Avenue of 12<sup>th</sup> Street and extending one hundred and forty-two (142) feet south of Edgington Avenue.

(Ord. 820 – Feb. 14 Supp.)

C. Edgington Avenue, on the north, beginning thirty-two (32) feet east of Washington and extending fifty-three (53) feet east of Washington.

D. Washington Street, on the west side, beginning at fifty-one (51) feet south of Edgington Avenue and extending to seventy-one (71) feet south of Edgington Avenue.

(Ord. 820 – Feb. 14 Supp.)

E. In the City parking lot located in Lot 8, Block 17, on the north side, beginning twenty-seven (27) feet west of Twelfth Street and continuing to fifty-two (52) feet west of Twelfth Street.

F. Twelfth Street, on the west side, beginning one hundred thirty (130) feet north of Edgington Avenue and extending to one hundred fifty-two (152) feet north of Edgington Avenue.

G. Twelfth Avenue, on the north side, beginning two hundred eighty (280) feet west of Tenth Street and extending three hundred forty-two (342) feet west of Tenth Street.

H. Washington, on the west side, beginning twenty-three (23) feet north of Fifteenth Avenue and continuing fifty-one (51) feet north of Fifteenth Avenue.

I. Fourteenth Avenue, on the north side, beginning at eighteen (18) feet west of Washington Street extending to thirty-eight (38) feet west of Washington Street.

*(Ord. 820 – Feb. 14 Supp.)*

J. On the east side of the alley running north and south beginning eighty (80) feet south from Twelfth Avenue and continuing ninety-six (96) feet south from Twelfth Avenue, all in Block 8, Original Town of Eldora.

K. In the hospital parking lots:

- (1) East parking lot north side of island, west two (2) stalls, twelve (12) feet wide each.
- (2) North side of clinic, south side of parking lot, one stall, twelve (12) feet wide.
- (3) West side of clinic, second stall north of emergency entrance, sixteen (16) feet wide.

L. The main pool parking lot, south side, east two (2) stalls, the first twelve (12) feet wide and the second sixteen (16) feet wide.

M. Edgington Avenue, on the north side, beginning forty-two (42) feet west of Twelfth Street and continuing to a point sixty-two (62) feet west of Twelfth Street.

N. Edgington Avenue, southeast corner of Washington Street twenty (20) feet east of no parking.

O. Edgington Avenue, northeast corner of Fourteenth Street ninety (90) feet east of crosswalk.

P. Fourteenth Avenue, on the north side, beginning at one hundred and fifteen feet (115) feet east of Twelfth Street and extending to one hundred and forty (140) feet east of Twelfth Street.

*(Ord. 820 – Feb. 14 Supp.)*



Q. The first fifteen (15) feet on the south end of the west side of the City parking lot located at Block 6, Original Town (east of U.S. Post Office). *(Ord. 749 – Dec. 03 Supp.)*

R. 12<sup>th</sup> Street, on the east side, beginning thirty-five (35) feet north of Edgington Avenue and continuing fifty-nine (59) feet north of Edgington Avenue. *(Ord. 783 – Oct. 08 Supp.)*

S. Washington Street, on the west side, beginning at one hundred and fifty-two (152) feet north of Edgington Avenue and extended to one hundred and seventy-two (172) feet north of Edgington.

T. Washington Street, on the east side, beginning at one hundred and fifty-two (152) feet north of Edgington Avenue and extended to one hundred and seventy-two (172) feet north of Edgington.

U. Fourteenth Avenue, on the south side, beginning at twenty-nine (29) feet east of Washington Street extending to fifty-three (53) feet east of Washington Street.

V. Fourteenth Avenue, on the south side, beginning at thirty-six (36) feet west of 12<sup>th</sup> Street extended to forty-eight (48) feet west of 12<sup>th</sup> Street.

W. Twelfth Street, on the east side, beginning at one hundred and sixteen (116) feet south of Edgington Avenue extending to one hundred and seventy-two (172) feet south of Edgington Street.

*(Ord. 820 – Feb. 14 Supp.)*

3. 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 motor vehicle not displaying a persons with disabilities parking permit;

B. Use by an operator of a motor 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 motor vehicle in violation of the rules adopted under Section 321L.8 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. Twenty-fourth Street, on both sides, for a distance of one hundred fifty feet south from Edgington Avenue;
2. Eleventh Avenue, on the south side, from Ninth Street to Twelfth Street between eight o'clock a.m. and five o'clock p.m., Monday through Friday, from August 20 to June 5;
3. Washington Street, on the east side, from Fifth Avenue to Eighth Avenue;
4. Washington Street, on the east side, from Ninth Avenue to Eleventh Avenue;
5. Washington Street, on the west side, from Eighth Avenue to Ninth Avenue;
6. Ninth Avenue, on the south side, from Washington Street to Ninth Street;
7. Fourteenth Street, on the east side, from Edgington Avenue to the alley south thereof;
8. Fourteenth Avenue, on both sides, from Fourteenth Street west one-half block;
9. Eleventh Street, on the westerly side, from Ninth Avenue to Eighth Avenue;
10. Thirteenth Street, on the east side, from Fourteenth Avenue north forty-five feet;
11. Twenty-first Street, on both sides, from Fifteenth Avenue to Twentieth Avenue;
12. Tenth Street, on the east side, from Eleventh Avenue to Twelfth Avenue;
13. Fourteenth Street, on both sides, for a distance of one hundred feet south from Seventh Avenue;
14. Seventh Avenue, on both sides, for a distance of one hundred feet west from Fourteenth Street;
15. Ninth Avenue, on the north side, from Park Street to Sixth Street on days when auto races are held at the Hardin County Fairgrounds from the hours of five o'clock p.m. through and including eleven o'clock p.m.

16. Ninth Street, on the east side, from Eleventh Avenue to Twelfth Avenue;
17. Ninth Street, on the west side, from Eleventh Avenue to Twelfth Avenue except for fifteen minute loading zone parking;
18. Twelfth Avenue, on the south side, from Tenth Street to a point fifty feet east;
19. Edgington Avenue, on the north side, from Washington Street to a point sixty-four feet west;
20. Washington Street, on the east side, from Edgington Avenue to a point one hundred ten feet south;
21. Edgington Avenue, on the south side, from Washington Street to a pointy thirty-five feet east;
22. Twenty-third Avenue, on the south side, from a point seventy-six feet west of Washington Street to a point ninety-six feet west of Washington Street, except for fifteen minute loading zone parking.
23. Fourteenth Avenue, on the south side, from a point one hundred thirty-seven feet west of Twelfth Street to a point one hundred fifty-three feet west of Twelfth Street, except for five minute loading zone parking.
24. Eighth Avenue, on the north side, from Eleventh Street to Twelfth Street.
25. Ninth Avenue, on the south side, from Park Street to 470 feet west of Fourth Street.
26. Tenth Avenue, on the south side, from Eleventh Street to Twelfth Street.
27. Eleventh Avenue, on the south side, from the Fairgrounds to Sixth Street.
28. Fourteenth Avenue, from northwest corner of Twelfth Street to 26 feet west of crosswalk.
29. Fourteenth Avenue, from southeast corner of Washington Street to 23 feet west of crosswalk.
30. Fifteenth Avenue, on the south side, from Washington Street west to the first alley.
31. Fifteenth Avenue, on both sides, from 150 feet west of the railroad tracks (17th Street) to Twenty-first Street.
32. Fifteenth Avenue, on the south side, from Twenty-fourth Street to a point 107 feet east.

33. Seventeenth Avenue, on the north side, from Washington Street to a point 94 feet east.
34. Seventeenth Avenue, on the south side, from Washington Street to a point 62 feet east.
35. Edgington Avenue, on both sides, from Second Street to Tenth Street.
36. Edgington Avenue, on both sides, from Fourteenth Street to the west corporate limits.
37. Edgington Avenue from the southeast corner of Twelfth Street to 24 feet east of crosswalk.
38. Edgington Avenue from the northeast corner of Twelfth Street to 24 feet east of crosswalk.
39. Edgington Avenue from the northwest corner of Twelfth Street to 16 feet west of crosswalk.
40. Edgington Avenue from the southwest corner of Twelfth Street to 26 feet west of crosswalk.
41. Edgington Avenue from the southeast corner of Washington Street to 15 feet east of crosswalk.
42. Edgington Avenue from the northeast corner of Washington Street to 21 feet east of crosswalk.
43. Edgington Avenue, southwest corner 30 feet west of crosswalk.
44. Third Street, on the east side, from Edgington Avenue to Vinton Avenue.
45. Sixth Street, on the east side, from Eleventh Street to Edgington Avenue.
46. Tenth Street, on the west side, from Edgington Avenue to Fifteenth Avenue.
47. Tenth Street, on the east side, from Sixteenth Avenue to Seventeenth Avenue.
48. Eleventh Street, on the west side, from Tenth Avenue to Eleventh Avenue.
49. Eleventh Street, on the east side, from Sixteenth Avenue to Seventeenth Avenue.
50. Eleventh Street, on the west side, from Edgington Avenue to a point 86 feet south and from Fourteenth Avenue, on the west side of Eleventh Street, to a point 62 feet north. *(Ord. 706 – Jul. 00 Supp.)*

51. Twelfth Street, on the east side, from Fifteenth Avenue to Seventeenth Avenue.
52. Twelfth Street from the northeast corner of Fourteenth Avenue to 42 feet north of crosswalk.
53. Twelfth Street from the northwest corner of Fourteenth Avenue to 13 feet north of crosswalk.
54. Twelfth Street, east Courthouse entrance 12 feet either side of walk.
55. Seventeenth Avenue, on the south side, from Washington Street west 330 feet. *(Ord. 821 – Feb. 14 Supp.)*
56. Twelfth Street from the southeast corner of Edgington Avenue to 16 feet south of crosswalk.
57. Twelfth Street from the southwest corner of Edgington Avenue to 24 feet south of crosswalk.
58. Twelfth Street from the northeast corner of Edgington Avenue to 20 feet north of crosswalk.
59. Twelfth Street from the northwest corner of Edgington Avenue to 10 feet north of crosswalk.
60. Twelfth Street, on the north side, from Fourteenth Street to Fifteenth Street.
61. Fourteenth Street, on the west side, from Seventh Avenue to Twelfth Avenue.
62. Fourteenth Street from the northeast corner of Edgington Avenue to 60 feet north of crosswalk.
63. Fourteenth Street, on the east side, from Fourteenth Avenue to Fifteenth Avenue.
64. Fifteenth Street, on the east side, from Eleventh Avenue to Twelfth Avenue.
65. Fifteenth Street, on the east side, from Twelfth Avenue to Edgington Avenue.
66. Fifteenth Street, on the east side, from Sixteenth Avenue to Seventeenth Avenue.
67. Fifteenth Street from the southwest corner of Edgington Avenue to 20 feet south of crosswalk.
68. Eighteenth Street, on the west side, from Edgington Avenue to Fourteenth Avenue.

69. Nineteenth Street, on the east side, from Edgington Avenue to Twelfth Street.
70. Twenty-first Street, on both sides, from Fifteenth Avenue south.
71. Twenty-fourth Street, on the east side, from Fifteenth Avenue south to the High School service entrance in back of the school.
72. Park Street, on both sides, from Edgington Avenue to Ninth Avenue.
73. Pool Park Driveway, on the Pool Park Circle Drive between the pool and the playground.
74. Washington Street, on the west side, from Ninth Avenue to a point 140 feet south.
75. Washington Street, on the west side, from Eleventh Avenue to a point 70 feet north.
76. Washington Street, on both sides, from Fifteenth Avenue to the first east-west alley south of Twentieth Avenue.
77. Washington Street from the northeast corner of Fourteenth Avenue to 27 feet north of crosswalk.
78. Washington Street from the southeast corner of Edgington Avenue to 30 feet south of crosswalk.
79. Washington Street, from the southwest corner of Edgington Avenue to 24 feet south of crosswalk.
80. Washington Street from the northeast corner of Edgington Avenue to 22 feet north of crosswalk.
81. Washington Street from the southeast corner of Twelfth Avenue to 32 feet south of crosswalk.
82. Washington Street from the southwest corner of Twelfth Avenue to 50 feet south of crosswalk.
83. Edgington Avenue from northeast corner of Fourteenth Street to 90 feet east of crosswalk.
84. Washington Street, on the east side, from Eleventh Avenue to a point 45 feet south except from 8 a.m. to 12 noon on Sunday only.
85. Fourteenth Avenue, on the south side, from Twelfth Street east to the alley except from 8 a.m. to 12 noon on Sunday only.
86. Twenty-fourth Street, on the west side, from Rick Collins Way south to the High School service entrance in back of the school between the hours of seven o'clock (7:00) a.m. and four o'clock (4:00) p.m. when school is in session.

*(Ord. 732 – May 02 Supp.)*

87. Edgington Avenue, on the south side, from Twelfth Street to a point fifty-eight (58) feet six (6) inches east.
88. Tenth Street on the west side from Twelfth Avenue to a point 62 feet south and on the east side from Twelfth Avenue to a point 73 feet south. *(Ord. 703 – Jun. 00 Supp.)*
89. Eleventh Street on the west side from Twelfth Avenue to a point 68 feet south. *(Ord. 703 – Jun. 00 Supp.)*
90. Eleventh Street, on the east side, from Edgington Avenue to Fourteenth Avenue. *(Ord. 710 – Sep. 00 Supp.)*
91. Fourteenth Avenue, on the south side, from Eleventh Street to Twelfth Street. *(Ord. 710 – Sep. 00 Supp.)*
92. Fourth Street, on the west side, from Ninth Avenue north to road's end on the days when auto races are held at the Hardin County Fairgrounds from the hours of five o'clock p.m. through and including eleven o'clock p.m. *(Ord. 723 – Jul. 01 Supp.)*
93. Eleventh Street, on the west side, from Ninth Avenue to Tenth Avenue. *(Ord. 726 – Jul. 01 Supp.)*
94. Eighteenth Avenue, on the south side, from Washington Street to the west end. *(Ord. 729 – Dec. 01 Supp.)*
95. Twentieth Avenue, from Tenth Street to Washington Street.
96. Ninth Avenue, from Fourteenth Street to Washington Street.
97. Eighteenth Avenue, on the north side, from Washington Street to a point seventy (70) feet west.
98. Nineteenth Avenue, on the south side, from Washington Street to the end of Nineteenth Avenue heading west.
99. Nineteenth Avenue, on the north side, from Washington Street to a point seventy (70) feet west.  
*(Subsections 95-99 added by Ord. 779 – Aug. 08 Supp.)*
100. Twenty-fourth Street, on the west side, 270 feet south from Edgington Avenue to the south entrance of the Eldora Clinic. *(Ord. 786 – Dec. 08 Supp.)*
101. Fifteenth Avenue, on the south side, from Ninth Street to Tenth Street. *(Ord. 803 – Dec. 10 Supp.)*
102. Washington Street, on the east side, from seventy six feet (76) north of Twelfth Avenue to ninety seven feet (97) north of Twelfth Avenue except for loading zone parking. *(Ord. 869 – Feb. 21 Supp.)*

**69.09 ALL NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. of any day.

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

1. Edgington Avenue, on both sides, from Eleventh Street to Fourteenth Street;
2. Fourteenth Avenue, on both sides, from Twelfth Street to Fourteenth Street;
3. Twelfth Street, on both sides, from Twelfth Avenue to Fourteenth Avenue;
4. Twelfth Street, on the east side, from Fourteenth Avenue to Fifteenth Avenue;
5. Washington Street, on both sides, from Eleventh Avenue to Fifteenth Avenue;
6. Twelfth Avenue, on both sides, from Twelfth Street to Fourteenth Street.
7. Twelfth Street, on both sides, from Edgington Avenue to Fourteenth Avenue, except for the east side from Fourteenth Avenue north to the first alley.
8. Washington Street, on both sides, from Twelfth Avenue to Fifteenth Avenue.
9. Fourteenth Avenue, on both sides, from Twelfth Street to Washington Street.

**69.10 TRUCK PARKING LIMITED.** No person shall park a motor truck,

semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended any truck or motor vehicle weighing over one ton, or any motor vehicle having a trailer attached regardless of weight, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic and shall not be so parked for more than thirty minutes.



- A. Edgington Avenue, on both sides, from Eleventh Street to Fourteenth Street.
  - B. Fourteenth Avenue, on both sides, from Eleventh Street to Fourteenth Street.
  - C. Washington Street, on both sides, from Twelfth Avenue to Fifteenth Avenue.
  - D. Twelfth Street, on both sides, from Twelfth Avenue to Fourteenth Avenue.
  - E. Twelfth Avenue, on both sides, from Twelfth Street to Fourteenth Street.
2. Other Streets. No person shall park any such vehicle with a gross weight in excess of four (4) tons on any other street within the City except for the purpose of making a delivery or the receiving of merchandise or cargo.

**69.11 PARKING LIMITED TO THIRTY MINUTES.** It is unlawful to park any vehicle for a continuous period of more than thirty minutes upon the following designated streets:

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

1. Washington Street, on the east side, from seventy-eight (78) feet south of Fourteenth Avenue to one hundred seventeen (117) feet south of Fourteenth Avenue.

**69.12 PARKING LIMITED TO FIFTEEN MINUTES.** It is unlawful to park any vehicle for a continuous period of more than fifteen minutes upon the following designated streets:

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

1. Edgington Avenue, on the north side, from Fourteenth Street East to ninety-eight (98) feet east of Fourteenth Street.
2. Washington Street, on the west side, from 120 feet south from Edgington Avenue to 150 feet south from Edgington Avenue.

*(Ord. 790 – Jun. 09 Supp.)*

**69.13 SNOW REMOVAL.** When snow or ice or a combination of the two has accumulated to a level of two (2) inches or more, it is unlawful for any person to park, abandon or leave unoccupied or unattended any vehicle, except emergency vehicles and vehicles operated by physicians on emergency calls, on the streets in the City until the traveled portion of the streets has been completely plowed.

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

**69.14 SNOW ROUTES.** The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

*(Code of Iowa, Sec. 321.236[12])*

**69.15 TRAILERS.** No person shall park a camping trailer, boat trailer or utility trailer on any public street or alley for more than twenty-four hours.

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## 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 and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

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

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

*(Code of Iowa, Sec. 805.6, 805.8A, and 805.8)*

**70.03 PARKING VIOLATIONS: ALTERNATE.** Admitted violations of parking restrictions imposed by this Code of Ordinances may be changed upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifty dollars (\$50.00) for all parking violations. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00) per month. The simple notice of a fine for improper use of a handicapped parking permit is one hundred twenty-five dollars (\$125.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

*(Ord. 872 – Feb. 21 Supp.)*

*(Code of Iowa, Sec. 321.236 [1a] & 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 Seventy-two Hour Period. When any vehicle is left parked for a continuous period of seventy-two (72) hours or more. If the owner is found, 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])*

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## CHAPTER 74

# GOLF CARTS

74.01 Purpose	74.07 Permit
74.02 Definitions	74.08 Traffic Code
74.03 Operation of Golf Carts Permitted	74.09 Liability and Insurance
74.04 Operation Prohibited	74.10 Accident Reports
74.05 Equipment	74.11 Violations
74.06 Hours	

**74.01 PURPOSE.** The purpose of this chapter is to regulate the operation of golf carts within the City as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter shall be applicable whenever a golf cart is operated on any street or alley, within the City as provided in this chapter.

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

1. “Golf cart” means a motorized vehicle with three or four wheels that is not designed to be operated at a speed of more than 25 miles per hour, whose purpose can include, but is not limited to, the playing of golf and is generally designed to carry persons including the driver.

**74.03 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon the streets of the City by persons who are 16 years of age or older and have a valid operator’s license, except as prohibited in Section 74.04 of this chapter. While operating on a City street the number of passengers permitted on a golf cart shall not exceed the number of seats intended for passengers. While on City streets operators must have on their person or in the golf cart proof of the required insurance and registration.

**74.04 OPERATION PROHIBITED.** The operators of golf carts shall comply with the following restrictions as to where golf carts may be operated within the City:

1. Streets. Golf carts shall be operated only upon streets that have designated by the City, for the purposes of traveling from one area to another. Golf carts shall not be allowed to operate on the following City streets.
  - A. Edgington Avenue in its entirety.
  - B. Washington Street in its entirety.
  - C. 21<sup>st</sup> Street from Edgington Avenue to the dead end.
  - D. 24<sup>th</sup> Street from Edgington Avenue to the dead end.
  - E. Rick Collins Way in its entirety.

Any person residing on a street on which golf carts are prohibited is permitted to operate on said street for the purpose of going directly to and from said person’s residence by the most direct route to a street where operation is permitted. The direct crossing of prohibited streets is allowed only for the purpose of crossing to continue route.

2. Railroad Right-of-Way. Golf carts shall not be operated on an operating railroad right-of-way. A golf cart 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.
3. Trails. Golf carts shall not be operated on all-terrain vehicle trails except where so designated.
4. Parks and Other City Land. Golf carts 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. Golf carts 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.
6. Special Exemptions. The Chief of Police is authorized to permit golf carts to operate on restricted City streets for certain special events.

**74.05 EQUIPMENT.** Golf carts operating on City streets must be equipped with adequate breaks, a slow-moving vehicle sign that extends above the roofline and a bicycle safety flag.

**74.06 HOURS.** Golf carts may only be operated on City streets between sunrise and sunset, regardless of whether the golf cart is equipped with headlights and/or taillights, as determined by the National Oceanic and Atmospheric Administration.

*(Code of Iowa, Sec. 321.247)*

**74.07 PERMIT.** No person shall operate a golf cart on any public street, or alley for any purpose unless the operator possesses a City of Eldora permit to operate a golf cart on City streets, issued by the City Clerk. The granted permit will be valid for the calendar year (January 1 through December 31<sup>st</sup>) in which it is purchased with required fee set by resolution of the Council.

**74.08 TRAFFIC CODE.** Any person operating a golf cart, for which a permit has been issued, shall strictly adhere to all traffic signs and signals and all other traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic.

**74.09 LIABILITY AND INSURANCE.** The owner and operator of the golf cart are liable for any injury or damage occasioned by the negligent operation of the golf cart. The owner shall be liable for any such injury or damage only if the owner was the operator of the golf cart at the time the injury or damage occurred or if the operator had the owner’s consent to operate the golf cart at the time the injury or damage occurred. Owner must show proof of liability insurance prior to the granting of a valid golf cart permit and must maintain said insurance and produce proof thereof while the golf cart is used as proved hereunder.

**74.10 ACCIDENT REPORTS.** Whenever a golf cart is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) 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.

**74.11 VIOLATIONS.** Any violation of this ordinance is a simple misdemeanor with a scheduled fine of \$100.

*(Code of Iowa, Sec. 321.247 and 805.8A(3))*

*(Ch. 74 – Ord. 870 – Feb. 21 Supp.)*

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## 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 Hours  
75.07 Negligence  
75.08 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 flotation-tire vehicle, with not less than three and not more than six low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) 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 that 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.

*(Ord. 832 – Oct. 14 Supp.)*

4. “Snowmobile” means a motorized vehicle that weighs less than one thousand (1,000) pounds, that uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (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 the City, for the purposes of traveling from one area of operation to another. No snowmobiles shall be driven on the streets or alleys solely for entertainment or pleasure.

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

- A. Edgington Avenue in its entirety.
- B. Washington Street from Sixth Avenue to the south City limits.
- C. Twelfth Street north of Sixteenth Avenue and south of Ninth Avenue.
- D. Fourteenth Street from Ninth Avenue to Twelfth Avenue.
- E. Fourteenth Street from Edgington Avenue to Sixteenth Avenue.
- F. Tenth Street north of Fourteenth Avenue and south of Ninth Avenue.
- G. Eleventh Street north of Edgington Avenue and south of Ninth Avenue.
- H. Ninth Street from Fourteenth Avenue to Eleventh Avenue.
- I. Twelfth Avenue from Ninth Street to Fourteenth Street.
- J. Fourteenth Avenue from Eleventh Street to Fifteenth Street.
- K. Fifteenth Avenue from Eleventh Street to Fifteenth Street.
- L. Tenth Avenue from Eleventh Street to Twelfth Street.

A person residing on a street on which snowmobiles are prohibited is permitted to operate on said street for the purpose of going directly to and from said person's residence by the most direct route to a street where operation is permitted.

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 ninety degrees (90°) 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.

7. No snowmobile shall be operated within three hundred (300) feet of any hospital or nursing home.

**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. No ATV shall be operated within three hundred (300) feet of any hospital or nursing home.

**75.06 HOURS.** No ATV or snowmobile shall be operated on the public streets or alleys after the hour of 11:00 p.m. Sunday through Friday or after midnight on Saturday and no ATV or snowmobile shall be operated before 7:00 a.m. on any day.

**75.07 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)*

**75.08 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) 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)*

*(Ch. 75 – Ord. 800 – Aug. 10 Supp.)*

## CHAPTER 76

### BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

**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 which 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 (2) 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** *(Repealed by Ord. 822 – Feb. 14 Supp.)*

**76.06 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])*

**76.07 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])*

**76.08 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

**76.09 RIDING ON SIDEWALKS.** The following shall 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])*

**76.10 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.

**76.11 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.

**76.12 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])*

**76.13 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 which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (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 which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

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

**76.14 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 the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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## CHAPTER 77

### BICYCLE LICENSES

77.01 License Fee

77.02 License Period; Renewal

77.03 Transfer of License

77.04 Loss; Theft of Plate

**77.01 LICENSE FEE.** Upon presentation of the application, the applicant shall pay a onetime fee of ten dollars (\$10.00). The Police Department will issue a bicycle tag which thereafter shall be kept permanently attached to the bicycle. Any future increase shall be by resolution of the Council.

*(Ord. 844 – Jun. 16 Supp.)*

**77.02 LICENSE PERIOD; RENEWAL.** The license period for licenses issued pursuant to this chapter is two (2) years and the fee for the renewal of the license is fifty cents (\$.50).

**77.03 TRANSFER OF LICENSE.** In the event a licensed bicycle is sold or transferred, the license tag shall pass to the new owner, or transferee, and the sale or transfer of the bicycle shall be reported to the Police Department by the former owner within five (5) days after the sale or transfer of such bicycle. The Police Department shall make a record of the sale or transfer of a licensed bicycle, together with the name of the new owner or transferee of the bicycle.

**77.04 LOSS; THEFT OF PLATE.** In the event that an owner of a bicycle loses the license plate issued pursuant to this chapter, or the license plate is destroyed or stolen, said owner shall report the loss immediately to the Police Department, and the Police Department shall then issue to the owner a new license plate at a cost of fifty cents (\$.50).

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## CHAPTER 78

# ROLLER SKATES, IN-LINE SKATES, SCOOTERS AND SKATEBOARDS

78.01 Observation of Traffic Rules  
78.02 Pedestrians; Right-of-way

78.03 Penalty; Impoundment

**78.01 OBSERVATION OF TRAFFIC RULES.** All persons using or operating roller skates, in-line skates, scooters or skateboards upon any street or sidewalk in the City shall observe all traffic rules as to traffic lights and highway stop signs and shall signal any change of direction or course of traffic in the same manner as signals are required under the law governing the use and operation of motor vehicles upon streets and highways, and they shall not turn left in traffic except at regular intersections of the streets or alleys, and shall not weave in and out of traffic, and shall observe at all times the following rules and regulations:

1. **Dangerous or Improper Riding.** It is unlawful for any person riding roller skates, in-line skates, a scooter or skateboard within the City to ride in an irregular or reckless manner, such as zigzagging, stunting, speeding or otherwise riding in such a manner as to endanger the safety of either the operator or of others.
2. **Single File.** Roller skates, in-line skates, scooters and skateboards shall be ridden single file upon sidewalks in residential districts, and roller skates, in-line skates, scooters and skateboards may not be ridden more than two (2) abreast elsewhere. *(Ord. 741 – Jun. 03 Supp.)*
3. **Keeping to the Right.** Roller skates, in-line skates, scooters and skateboards shall be operated as near the right curb as possible at all times.
4. **Towing.** It is unlawful for any person riding roller skates, in-line skates, a scooter or skateboard to be towed or to tow any other vehicle upon the streets of the City.
5. **Following Fire Trucks.** It is unlawful for any person riding roller skates, in-line skates, a scooter or skateboard to follow a fire truck or other fire equipment at any time.
6. **Courthouse Square.** It shall be a violation of the chapter for a person to ride roller skates, in-line skates, scooters and skateboards in the Courthouse Square which means the territory within the area bounded by the following streets:

- A. Washington Street from Edgington Avenue to 14<sup>th</sup> Avenue.
- B. 12<sup>th</sup> Street from Edgington Avenue to 14<sup>th</sup> Avenue.
- C. 14<sup>th</sup> Avenue from Washington Street to 12<sup>th</sup> Street.
- D. Edgington Avenue from Washington Street to 12<sup>th</sup> Street.  
(Ord. 741 – Jun. 03 Supp.)

**78.02 PEDESTRIANS; RIGHT-OF-WAY.** Pedestrians upon sidewalks shall have the right-of-way at all times over persons using or operating roller skates, in-line skates, scooters or skateboards upon any sidewalk not prohibited by this chapter and any person using or operating roller skates, in-line skates, a scooter or skateboard shall turn off the sidewalk at all times when meeting or passing pedestrians.

**78.03 PENALTY; IMPOUNDMENT.** Any person violating any of the provisions of this chapter is guilty of an offense and shall suffer his or her roller skates, in-line skates, scooter or skateboard to be impounded for not less than five (5) days for a first offense, ten (10) days for the second offense and thirty (30) days for the third offense.

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## CHAPTER 80

### ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Extension of Time

80.06 Fees for Impoundment

80.07 Disposal of Abandoned Vehicles

80.08 Disposal of Totally Inoperable Vehicles

80.09 Proceeds from Sales

80.10 Duties of Demolisher

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

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

1. “Abandoned vehicle” means any of the following:
  - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) 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 twenty-four (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 twenty-four (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 ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-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 any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "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. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. 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. 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.** The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice 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. The notice shall also state that the 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 and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a

public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. 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. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (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. 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 ten (10) day reclaiming period.

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

**80.04 NOTIFICATION IN NEWSPAPER.** If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of 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 Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

**80.05 EXTENSION OF TIME.** The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtain an additional five (5) days within which the motor vehicle or personal property may be reclaimed.

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

**80.06 FEES FOR IMPOUNDMENT.** The owner, lienholder or claimant shall pay three dollars (\$3.00) if claimed within three (3) days of impounding, plus one dollar (\$1.00) 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])*

**80.07 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])*

**80.08 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 (2) 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])*

**80.09 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 ninety (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])*

**80.10 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 Warning Signals

81.03 Obstructing Streets  
81.04 Crossing Maintenance

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

1. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.  
*(Code of Iowa, Sec. 321.1 [29])*
2. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

**81.02 WARNING SIGNALS.** Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

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

**81.03 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 ten (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.

**81.04 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)*

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## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Director of Utilities; Duties	90.13 Defective Water Service Lines
90.03 Mandatory Connection to Public Water System And Use of Private Wells	90.14 Curb Valve
90.04 Removal of Existing Taps	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Tapping Fee	90.17 Completion by the City
90.07 Compliance with Plumbing Code	90.18 Shutting off Water Supply
90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Grounding to Water Service Line
90.10 Specifications	90.21 Shared Service Lines
90.11 Water Service Lines	90.22 Easement
	90.23 Cross-Connections

**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. “Water main” means a water supply pipe provided for public or community use.
4. “Water service pipe” means the pipe from the water main to the building served.
5. “Water system” or “water works” means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

**90.02 DIRECTOR OF UTILITIES; DUTIES.** The Director of Utilities shall have charge of the water works system, mains, hydrants, service pipes, tools and appurtenances and shall operate the water works system. The Director of Utilities shall inspect mains, hydrants, service pipes, meters, connections and other property of the water department when under construction and from time to time as needed, after construction, and approve or condemn the same. The Director of Utilities shall also keep an inventory of the property of the department which shall be corrected monthly and shall make such reports to the Council as may be required by the Council. The Director of Utilities shall promptly notify the Council of defects in the property of the department and property owners of all defects in the construction and connection of the property owners water service pipes.

**90.03 MANDATORY CONNECTION TO PUBLIC WATER SYSTEM AND USE OF PRIVATE WELLS.**

1. Connection to the Public Water System. Except as otherwise provided herein, all residences and business establishments within the City using water for human habitation or occupancy shall connect to the public water system. Water is used for human habitation or occupancy if it is used in the plumbing system of a residence or a business occupied by humans.

2. Exceptions. A residence or business establishment within the City using water for human habitation or occupancy may obtain its water from a private well as follows:

A. Existing Wells. A well in existence on the effective date of the ordinance codified by this section may continue to obtain water from a private well as follows:

(1) For irrigation of grass and landscape planting upon the property for so long as desired;

(2) For human habitation or occupancy until the date established in subsection 6 herein.

B. New Wells. A well may be drilled only upon property which does not have access to the City water system within 350 feet of the property, and use of the well for human habitation or occupancy may continue until the date established in subsection 6 herein.

3. Permit. No person shall install or maintain a private well after the date of enactment of the ordinance codified by this section, or own or use a private well within the City after such date, unless the person has registered such well and obtained a permit for same from the City. The registration and permit process shall be completed on forms provided by the City.

4. Contaminated Area. Notwithstanding anything to the contrary which permits a private well to remain in existence within the City, neither shall a new private well be drilled nor shall repairs to an existing private well be made after the date of enactment of the ordinance codified by this section, if the well is located within a contaminated area.

5. Variance. The City Council, upon recommendation of the Superintendent of the City Water System or the Superintendent's designated assistant or agent, may consider a variance or exception to this section on application to the City.

6. Termination of Use of Existing Wells. The use of any private well not permitted to continue under this section shall cease and the well shall be plugged in accordance with rules of the Iowa Department of Natural Resources on the effective date of the ordinance codified by this section or 90 days after the date the public water system is extended to within 350 feet of the affected property, whichever is later.

7. Definitions. For use in this section the following terms are defined:

A. "Private well" means any groundwater well, except a monitoring well used as a part of a remediation system, used both for drinking water and for non-drinking water purposes, including a groundwater well which is not properly plugged in accordance with rules of the Iowa Department of Natural Resources.

B. "Contaminated area" means a point within an area that has groundwater contamination or that, in accordance with design models of the Iowa Department of Natural Resources, may become contaminated due to percolation of groundwater contamination in the vicinity of the well site.

C. "Human habitation or occupancy" means use of water in the plumbing system of a residence or business used or occupied by humans.

*(Ord. 767 – Oct. 06 Supp.)*

**90.04 REMOVAL OF EXISTING TAPS.** Removal of existing taps to the City mains are subject to the following:

1. Whenever a connection permit is secured for water service to a building currently connected to the City mains, the property owner shall be responsible for removing the old tap and after the connection has been plugged, and before the excavation is backfilled the plug must be inspected by the Director of Utilities.

2. Whenever a house or building is destroyed or permanently abandoned and will not be replaced or occupied within ninety (90) days, the owner thereof shall be responsible for removing the existing service at the main in the manner set forth above.

**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 sixty (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 TAPPING FEE.** Before any permit is issued the person who makes the application shall pay a one hundred dollar (\$100.00) per unit tapping fee to the City.

*(Ord. 763 – Jun. 06 Supp.)*

*(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 Division 4, Plumbing Rules and Regulations, of the State Building Code.

**90.08 PLUMBER REQUIRED.** All installations of water service pipes and taps into water mains shall be made by a plumber licensed by the City. The Director of Utilities may issue a special permit allowing a homeowner to make certain repairs to the water service line in accordance with rules and regulations of the City.

**90.09 EXCAVATIONS.** Open cutting of a City street for the purpose of installing a water line shall not be allowed, if the water line can be pushed or bored. In the event the City's water main lies in the street, only that portion of the street which allows exposure of the water main may be removed. Any other way of installation must first be approved by the Director of Utilities. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

**90.10 SPECIFICATIONS.** The Director of Utilities may specify the kind and size of the main tap, the kind and size of the water service line, size of meter, type of meter setting and any other stipulations.

**90.11 WATER SERVICE LINES.** All water service lines shall be no smaller than three-quarters (3/4) inch I.D. and must be installed at least five (5) feet deep. All copper service lines shall be type K copper tubing. Only copper tubing may be used for the water service line from the corporation to the curb stop, or for those portions of the water service line located under the City street. Customers wishing to use roll plastic for a water service line shall be required to run a locating tape or wire with the pipe so that it may be located. The roll

plastic pipe must be SDR7 with three-quarter (3/4) inch inside diameter with iron pipe size outside diameter; roll plastic pipe must be ultra high plus manufactured by Granse MFG or equal rated at one hundred sixty (160) psi. All ridged plastic service lines one (1) inch and larger must be rated at a minimum of two hundred (200) psi and be a gasketed connection between joints. A located tape or wire must also be installed for locating purposes.

**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 DEFECTIVE WATER SERVICE LINES.** Before any service line repair work is done, except in the case of an emergency, the person doing the work shall give the Director of Utilities twenty-four (24) hours' notice prior to repair work beginning. All repair work must be done according to City specifications. Anyone using plastic in the repair of a metal line must provide a jump wire so the pipe may be located. All repairs must be inspected by the Director of Utilities before excavation is backfilled. The Director of Utilities shall have the authority to disconnect water which is supplied to any property whenever necessary to repair or replace any water service line or connections, from the water meter to the City's water main. In the event of a leak in a service line or connection, the Director of Utilities shall give written notice to the owner of the property that said leak exists, if the owner can be located within the City. If the owner fails to commence repairs within forty-eight (48) hours after receiving said notice, Saturdays, Sundays and holidays excluded, or if the owner cannot be found within the City, the City shall repair the service line or its connections and the reasonable cost thereof shall:

1. Be paid by the owner prior to service to said property being restored; or
2. In the event of undue hardship as determined by the Director of Utilities, service may be restored and the reasonable costs of said repairs, with interest at the rate of nine percent (9%) per annum, shall be certified to the auditor for collection.

**90.14 CURB VALVE.** All curb stop boxes and valves shall be placed in the City right-of-way, one foot from the sidewalk or, in the case of no sidewalk, located at the direction of the Director of Utilities, at ground level to avoid damage. Any property found to have a defective curb stop valve or box shall be notified by the Director of Utilities of the defect and that repairs must be made within thirty (30) days of said notice. If the owner fails to make the necessary

repairs in said time period, the City shall make the necessary repairs and all costs shall be paid by the owner of said property or assessed against said property. In the event a water service needs to be shut off when the ground is frozen, making repairs to the curb stop valve or box not possible, it shall be the owner's responsibility to protect the exposed line in the structure, home or business from freezing. All costs incurred by the City, due to the break to the service line, shall be paid for by the owner of said service line.

**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 Director of Utilities before they are covered, and the Director of Utilities shall keep a record of such approvals. If the Director of Utilities 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 Director of Utilities 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 twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Director of Utilities 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, and the plumber's bond or cash deposit shall be security for the assessment. 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 Director of Utilities 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 Director of Utilities has ordered the water to be turned on.



**90.19 OPERATION OF CURB VALVE AND HYDRANTS.** It is unlawful for any person except the Director of Utilities 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.

**90.20 GROUNDING TO WATER SERVICE LINE.** It is unlawful for anyone to use the water service line for the purpose of providing an electrical ground. Such grounds can result in a stray electric current being sent through the water service line to the City's water main and could result in personal injury to anyone working on the water service line or City water main, or cause damage to the water service line or City's water main.

**90.21 SHARED SERVICE LINES.** Any properties that share a common water service line from the City's water main will not be allowed to repair any portion of that common water service line that serves both properties. If any repairs become necessary on any common water service line, it will be the responsibility of each individual property owner to install said owner's own individual service line to the City water main. All properties using the common water service line shall be responsible for any cost of disconnecting the line tap from the City's water main if it is not used.

**90.22 EASEMENT.** The Director of Utilities 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 purpose of, but not limited to, repair and maintenance of any portion of the water distribution facilities 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.

**90.23 CROSS-CONNECTIONS.**

1. Definitions. For use in this section, the following terms are defined:

A. "Approved backflow prevention assembly" means backflow assemblies complying with the Iowa State Plumbing Code Section 641-25.5(1)b or Section 641-25.5(1)c for containment in a fire protection system.

B. "Auxiliary water supply" means any water supply on or available to the premises other than the purveyor's public water supply. These auxiliary waters may include water from any purveyor's public potable water supply or any natural source(s) such as a well, spring, river, stream, harbor, etc., or "used waters"

or “industrial fluids.” These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have authority for sanitary control.

C. “Back-pressure” means the flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of a potable water supply system from any source(s) other than the intended source.

D. “Back-siphonage” means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source(s) other than the intended source, caused by the reduction of pressure in the potable water supply system.

E. “Backflow” means the reversal of the normal flow of water caused by either back-pressure or back-siphonage.

F. “Contamination” means an impairment of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

G. “Cross-connection” means any physical connection or arrangement of piping or fixtures between two (2) otherwise separate piping systems, one of which contains potable water and the other non-potable water or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system. This would include any temporary connections, such as swing connections, removable sections, four-way plus valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multi-port tubes.

H. “Cross-connection containment” means the installation of an approved backflow assembly at the water service connection to any customer’s premises where it is physically, economically infeasible to find and permanently eliminate or control all actual or potential cross-connections with the customer’s water system; or, it means the installation of an approved backflow prevention assembly on the service line leading to the supplying portion of a customer’s water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection (isolation).

- I. “Cross-connection controlled” means a connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.
2. Responsibility. The City is responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the City, an approved backflow prevention assembly is required (at the customer’s water service connection, or within the customer’s private water system) for the safety of the water system, the City or its designated agent shall give notice in writing to said customer to install such an approved backflow prevention assembly at a specific location on said customer’s premises. The customer shall immediately install such approved assembly at the customer’s own expense, and failure, refusal or inability on the part of the customer to install, have tested and maintain said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.
3. Plumbing Official. The Director of Utilities has the responsibility not only to review building plans and inspect plumbing as it is installed, but the Director of Utilities has the explicit responsibility of preventing cross-connections from being designed and built into the structures within its jurisdiction. Where the review of building plans suggests or detects the potential for a cross-connection being made an integral part of the plumbing system, the Director of Utilities has the responsibility to require such cross-connections to be either eliminated or provided with an approved backflow prevention assembly. The Director of Utilities’ responsibility begins at the point of service (the downstream side of the meter) and carries throughout the entire length of the customer’s water system. The Director of Utilities should inquire about the intended use of water at any point where it is suspected that a cross-connection might be made or where one is actually called for by the plans. When such a cross-connection is discovered, it will be mandatory that a suitable, approved backflow prevention assembly be required by the plans and be properly installed in accordance with the Manual Cross-Connection Control published by the Foundation for Cross-Connection Control, Hy Di Research.
4. Requirements.
  - A. No water service connection to any premises shall be installed or maintained by the City unless the water supply is

protected as required by State laws, regulations, codes and this section. All new construction shall include an approved backflow prevention assembly to achieve total containment on each water service connection for residential, commercial, industrial, fire, governmental and/or irrigation use. Service of water to any premises shall be discontinued by the City if a backflow prevention assembly required by this section for control of backflow and cross-connections is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, by-passed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

B. The customer's system shall be open for inspection at all reasonable times to authorized representatives of the City to determine whether cross-connections or other structural or sanitary hazards, including violation of this section, exist. When such a condition becomes known, the City shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition(s) in conformance with the State and City statutes relating to plumbing, water supplies and the regulations adopted pursuant thereto.

C. An approved backflow prevention assembly shall be installed on each service line to a customer's water system, at or near the property line, or immediately inside the building being service; but in all cases, before the first branch line leading off the service line, whenever the City deems the protection of the water supply to be in the best interest of the water supply customers. All water tank fill points, bulk load-outs and chemical spraying devices attached to any garden hose shall have a backflow prevention device or a proper air gap. The type of protective assembly required shall depend upon the degree of hazard which exists at the point of cross-connection (whether direct or indirect).

D. All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation, and which have been properly maintained, shall, except for the inspection and maintenance requirements, be excluded from the requirements of these rules so long as the City is assured that they will satisfactorily protect the public water system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance or

when the City finds that the maintenance of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

E. Where the level of the risk of backflow warrants, in the opinion of the Director of Utilities, there shall be an annual inspection and operational test of the backflow prevention assemblies, at the customer-user's expense. In those instances where the Director of Utilities deems the hazard to be great, he or she may require certified inspections and tests at a more frequent interval. These inspections and tests shall be performed by a certified backflow assembly technician.

F. Backflow prevention assemblies shall be installed in water supply lines to provide at least the degree of protection stipulated in the Manual of Cross-Connection Control. All backflow prevention assemblies shall be exposed for easy observation and be readily accessible.

G. All backflow prevention assemblies installed in a potable water supply system for protection against backflow shall be maintained in good working condition by the person or persons having control of such assemblies. The City may inspect such assemblies and, if found to be defective or inoperative, shall require the replacement thereof. No assembly shall be removed from use, relocated or another assembly substituted without the approval of the City.

H. All backflow prevention assemblies shall be tested within ten (10) working days of installation.

I. No backflow prevention assembly shall be installed so as to create a safety hazard, for example, installed over an electrical panel, steam pipes, boilers, pits or above ceiling level.

J. In the event a contamination of the water distribution system should occur from any home or business, that home or business shall be responsible for all costs incurred by the City to resolve said contamination.

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## CHAPTER 91

### WATER METERS

91.01 Purpose  
91.02 Water Meters Required  
91.03 Remote Readout Device  
91.04 Installation  
91.05 Size and Setting

91.06 Mobile Home Parks  
91.07 Meters Damaged  
91.08 Separate Meters for Outside Watering  
91.09 Meter Pit  
91.10 Right of Entry

**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 METERS REQUIRED.** All water furnished customers shall be measured through meters owned and furnished by the City for a monthly fee as set by resolution of the Council. Any water meter may be tested by the Water Department on a time schedule determined by them with proper notification to the property owner.

**91.03 REMOTE READOUT DEVICE.** All water meters shall include a remote readout device which shall be installed on an outside wall of the customer's premises in a convenient and accessible place. In case of a failure between the meter and the remote reader the customer shall be responsible for water use according to the reading on the water meter itself.

**91.04 INSTALLATION.** All water meters shall be installed and removed by an employee of the City Water Department. Before a meter is furnished to a customer, the customer must provide a meter setting that will allow a convenient and accessible area around the meter and which must be inspected by the Director of Utilities. Any customer wishing to reset an existing meter must first file a written application therefor with the City.

*(Ord. 759 – Aug. 05 Supp.)*

**91.05 SIZE AND SETTING.** The size of the meter shall be determined by the demand needed for the premises served, not by the size of the service line. All meter settings one and one-half (1½) inches and larger shall have a bypass built into the line so as to allow the meter to be removed if necessary without disruption of service. Under certain conditions, depending on the user, meters smaller than one and one-half (1½) inches may be required to have a bypass built in. All meter settings shall be required to have valves installed on both the inlet and outlet side of the meter. All bypass lines shall be locked, and all use of the bypass shall be by the Water Department only. Anyone needing to break a seal wire on the water meter or outside reader must first receive permission

from the Water Department, then notify the Department as soon as work is completed so it may be resealed.

**91.06 MOBILE HOME PARKS.** All mobile home parks will be billed from one main water meter which shall have the meter sized according to demand. All parts of the water distribution system inside the park are still owned and maintained by the park and all leaks in the park's water distribution system will be measured and billed off the main water meter to the park owner. The City Water Department shall be granted access to the park to provide service to each account. *(Ord. 867 – Feb. 21 Supp.)*

**91.07 METERS DAMAGED.** Meters or outside readers and wires which are damaged by freezing or negligence shall be repaired or replaced by the City Water Department and all charges shall be paid by either the owner or occupant of said property. When a meter is out of repair so that it cannot be determined how much water has been used or consumed by the owner or occupant of the property, the City shall charge the said owner or occupant the average charge for the consumption of water during the last twelve (12) months that said meter was in proper condition.

**91.08 SEPARATE METERS FOR OUTSIDE WATERING.** Any customer needing to be provided with an extra water meter for measuring the outside use of water which, in the opinion of the Director of Utilities, does not enter the sanitary sewer shall be provided a water meter by the City on the following terms:

1. A new five-eighths (5/8) inch by one-half (1/2) inch water meter and meter connections must be purchased from the City and be permanently installed in the line going to the outside faucet according to Water Department meter regulations, with the water used through the permanently installed meter being subtracted from the sewer charges on the main meter, with all cost of installation and maintenance being paid by the customer.

*(Ord. 759 – Aug. 05 Supp.)*

**91.09 METER PIT.** Any customer wanting to replace or install a new meter pit must file with the Director of Utilities a permit stating the location of the meter pit, type of business using water, minimum and maximum flow of water used and minimum depth of water line at pit site. The Director of Utilities will determine which type of meter pit shall be installed in order to meet City specifications. The meter pit construction and installation must be inspected and approved by the Director of Utilities before a water meter will be furnished. All meter pits must be able to have the meter installed and removed, or have the



meter read without entering the meter pit unless otherwise approved by the Director of Utilities.

**91.10 RIGHT OF ENTRY.** The Director of Utilities shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

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## 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 Utilities Deposit for Renters  
92.10 Additional Service Charges

**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. When one meter serves more than one apartment, store or mobile home, the total water used shall be divided by the number of units served by the meter and the bill computed, and the result multiplied by the number of units to determine the total bill.

**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. 0 - 1,000 gallons \$4.80 per 1,000 gallons
2. > 1,000 gallons \$2.95 per 1,000 gallons
3. The following are annual rate increases needed to satisfy the Iowa Department of Natural Resources' requirement for the SRF Loan repayment. These rates may be adjusted annually to ensure compliance with Iowa Department of Natural Resources' requirements.

Passage – 2011	8.0%
2011-12	8.0%
2012-13	8.0%
2013-14	6.5%
Each Year After	5.0%

4. The Council may by resolution lower the water rate increase from 5% to no less than 2% by resolution after Fiscal Year 2013-14 for reasons of low inflation in operational cost, increased usage that disperses overhead, or any other reason the Council sees fit. Minimum 2% is for capital improvement resources or depreciation costs for the water system.

*(Ord. 802 – Sep. 10 Supp.)*

**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 rates one hundred twenty percent (120%) of the 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 as part of a combined service account, payable in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Reading Meters. The Director of Utilities shall be responsible to have all water meters read monthly and shall enter upon the proper books all charges against the owners for water and repairs chargeable to them.
2. Bills Issued. The Clerk shall prepare and issue utility bills on or before the first working day of each month.
3. Bills Payable. Utility bills shall be due and payable at the office of the Clerk by the 15<sup>th</sup> day of the month.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of five dollars (\$5.00) or ten percent (10%) of the amount due, whichever is greater, shall be added to each delinquent bill.

*(Ord. 757 – Jun. 05 Supp.)*

**92.05 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

*(Ord. 780 – Sep. 08 Supp.)*

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested within twenty-four (24) hours of the scheduled shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The decision of the Clerk is final.

4. Fees. A fee of fifty dollars (\$50.00) during regular hours or one hundred dollars (\$100.00) after regular working hours shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property. A fee of \$30.00 shall also be added for every delinquent charge that requires filing with state, county or private entities for purposes of collecting delinquent bills.

*(Ord. 757 – Jun. 05 Supp.) & (Ord. 824 – Feb. 14 Supp.)*

5. Inoperative Curb Valve. In the event water service needs to be disconnected for nonpayment and the curb stop box or valve is inoperative, the Water Department shall make the necessary repairs with all cost being billed to the property owner. If the bill is not paid within ninety (90) days or arrangements made, said bill will be assessed against the property.

**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 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.** The lien for nonpayment shall not apply to a residential or commercial 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 property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. Upon receipt, the City shall acknowledge the notice and deposit. The landlord's written notice shall contain the name of the tenant responsible for the charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant for a residential property shall require a new notice to be given to the City within thirty (30) business days of the change in tenant. A change in tenant for a commercial property shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of residential property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. A change in ownership of commercial property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

*(Code of Iowa, Sec. 384.84)*

*(Ord. 823 – Feb. 14 Supp.)*

**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 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 thirty (30) days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

*(Ord. 780 – Sep. 08 Supp.)*

**92.09 UTILITIES DEPOSIT FOR RENTERS.** Any new customer who is a renter wanting to be provided with City water and sewer services will be required to make a deposit of \$150.00. The deposit may be applied against any charges due from the renter or may be returned to the renter at the time the account is closed and settled. A utility deposit will not be required of any customer who can present a letter of credit showing good credit history from the previous water utility that served said customer.

1. Amount to Reestablish Credit. When a customer who rents property has no utility deposit on file and has been turned off for nonpayment of a utility service bill, the customer shall be required to pay all back bills, pay a \$50.00 fee to turn on service, and make a deposit of \$150.00.
2. Unpaid Account. When water service has been discontinued for whatever reason, the deposit will be applied to any unpaid balance due the City Utilities Department.
3. No Deposit Received. In the event the water service remains on and the meter is inside at the home or business being rented, it shall be the responsibility of the owner, or the realtor doing the renting, to have the renter come to City Hall and make the necessary deposit before moving in.

*(Ord. 824 – Feb. 14 Supp.)*

**92.10 ADDITIONAL SERVICE CHARGES.** The City Council shall from time to time set by resolution a schedule of charges for services provided which are beyond the scope of the normal provision of water service. The normal provision of water service as used in this section is defined to mean providing the service of water to the City water main. Those services that are beyond the scope of normal service include, but are not limited to, the removal or installation of a water meter, the replacement of damaged meter bottoms, water disconnection, replacement of damaged outside readers or wires, pipe pushing and curb box cleaning.

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## CHAPTER 93

# WATER CONSERVATION

93.01 Control of Water Supply  
93.02 Limited Usage Conservation

93.03 Prohibited Usage Conservation  
93.04 Restricted Base Usage

**93.01 CONTROL OF WATER SUPPLY.** During conditions when the supply of water to the water distribution system becomes depleted, such as drought or mechanical failure, water may need to be rationed. The Council may declare, by resolution, a public emergency water shortage. The shortage may require one of three (3) possible actions: (i) limited usage conservation; (ii) prohibited usage conservation; (iii) restricted base usage. The provisions of this chapter shall be imposed for water consumption until the water shortage emergency is ended.

**93.02 LIMITED USAGE CONSERVATION.** If voluntary conservation is not adequate to guarantee sufficient water supply for general use and fire protection, the City shall limit usage by enforcing a premium rate charge as follows:

1. Base Allocation. The base allocation of water for each customer shall be equal to said customer's estimated average consumption per billing period.
2. Appeal and Adjustment of the Base Allocation. Any customer may appeal to the Director of Utilities for an adjustment of the base allocation amount. An adjustment may be granted using the following criteria:
  - A. For single-family residential, the base allocation may be increased up to fifteen percent (15%) above the customer's actual average consumption for the previous winter (November through April).
  - B. For commercial, industrial, institutional and multi-family residential use, the base allocation may be increased based on factors appropriate to the individual customer; such as, the average consumption during the previous winter (November through April), production, service, and occupancy data provided by the customer.
3. Premium Rate for Over-consumption. In addition to the water rates duly enacted by the Council, all customers shall pay a premium rate

of ten dollars (\$10.00) per one thousand (1,000) gallons consumed in excess of the base allocation.

4. Adjustment of Premium Rate Charges. Any customer may file for adjustment of the premium rate charges. The Director of Utilities may grant an adjustment in accordance with the following criteria:

- A. The cause of the high consumption shall be mechanical in nature (such as broken or leaky pipes or fixtures) rather than human carelessness.
- B. The customer shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a plumber's invoice, statement or a materials receipt.
- C. The adjustment shall be granted only for the billing period immediately prior to the correction of the failure.
- D. There shall be a minimum adjusted rate of five dollars (\$5.00) for accounts granted an adjustment of the premium rate charges.

**93.03 PROHIBITED USAGE CONSERVATION.** If voluntary and limited usage conservation is not adequate to guarantee sufficient water supply for essential use, the City shall limit usage by prohibiting certain water uses in addition to enforcing an accelerated premium rate as follows:

- 1. Accelerated Premium. All customers shall pay a premium rate of twenty five dollars (\$25.00) per one thousand (1,000) gallons consumed in excess of the base allocation.
- 2. Prohibited and Restricted Water Uses. The following are prohibited and restricted water uses during a water shortage emergency:
  - A. No outdoor watering or irrigation of lawns in any way whatsoever.
  - B. No outdoor watering of any kind between the hours of eight o'clock (8:00) a.m. to eight o'clock (8:00) p.m. daily.
  - C. Watering or irrigation of flowers and vegetable gardens, trees and shrub trees less than four (4) years old, and new seeding or sod is permitted once per week with an application not to exceed one (1) inch.
  - D. No car washing is allowed except at commercial establishments which provide that service.



E. No water shall be used to fill private swimming pools, children's wading pools or any other outdoor pool or pond of any kind or description whatsoever.

However, water reclaimed or recycled after some other primary use and water derived from sources other than the municipal water supply are not subject to this chapter.

3. Reduction in Flow of Water to any Customer. The Director of Utilities is authorized, after giving notice and opportunity for hearing, to reduce the flow of water to any customer determined to be using water in any manner not in accordance with this chapter.

4. Penalties. Any customer who, in making application to the Director of Utilities for adjustment of the base allocation or premium rate charges, intentionally provides false or incorrect statements or information shall automatically have their requests denied and shall additionally be liable to a penalty of twenty-five dollars (\$25.00) for the first offense and a penalty of one hundred dollars (\$100.00) for the next and each succeeding or additional violation. Failure to pay the penalty within five (5) working days after assessment shall mean discontinuation of water service until the fine and the appropriate reconnect charge are paid in full.

5. Exemptions. The Council may waive enforcement of this chapter for any individual, business or organization after considering an appeal at a public meeting.

**93.04 RESTRICTED BASE USAGE.** Under severe shortage conditions, across-the-board percentage reductions in base allocations shall be set by resolution of the Council.

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## CHAPTER 95

### SANITARY SEWER SYSTEM

95.01 Definitions

95.02 Director of Utilities' Authority

95.03 Powers and Authority for Inspection

95.04 Notice to Correct

95.05 Other Remedies

95.06 Appeals

95.07 Damaging Sewer System

95.08 Treatment Required

95.09 Compulsory Connection to Public Sewer

**95.01 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "Administrator" means the Administrator of the U.S. Environmental Protection Agency.
2. "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 (5) days at twenty (20) degrees C., expressed in milligrams per liter.
3. "Building lateral" means the extension from the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall and extending to the public sewer or other place of disposal.
4. "Building sewer" means that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building lateral.
5. "Combined sewer" means a public sewer to be used as both a sanitary sewer and a storm sewer.
6. "Commercial user" means any user of the wastewater treatment facilities where business or commercial trade is conducted and not classified as an industrial user.
7. "Director" means the Director of the State Department of Natural Resources.
8. "Effluent criteria" are defined in any applicable NPDES permit.
9. "Federal Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq*) as amended by the Federal Water Pollution Control Act of Amendments of 1972 (*Pub. L. 92-500*) and (*Pub. L. 93-243*).
10. "Garbage" means solid animal and vegetable wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

11. “Industrial user” means any non-governmental, nonresidential user of a publicly owned treatment works which discharges process wastes more than the equivalent of 4,000 gallons per day (gpd) of sanitary wastes and which is identified in the *Standard Industrial Classification Manual, 1972, Office of Management and Budget*, as amended and supplemented under one of the following divisions:

- A. Division A – Agriculture, Forestry and Fishing
- B. Division B – Mining
- C. Division D – Manufacturing
- D. Division E – Transportation, Communications, Electric, Gas and Sanitary Services
- E. Division I – Services

or any non-governmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems or to injure or to interfere with any sewage treatment process or which constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

12. “Industrial waste” or “process waste” means any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary wastes.

13. “Milligrams per liter” means a unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water.

14. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

15. “NPDES permit” means any permit or equivalent document or requirements issued by the Administrator or, where appropriate, by the Director to regulate the discharge of pollutants pursuant to the applicable sections of the Federal or State Act.

16. “Operation and Maintenance” means all annual expenditures, including replacement costs, for materials, labor, utilities and other items

which are necessary for managing and maintaining the wastewater system to achieve the design capacity and performance.

17. “pH” means the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in *Standard Methods*.

18. “Pretreatment” means the treatment of wastewater from sources before introduction into the public sewer.

19. “Properly shredded garbage” means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ( $\frac{1}{2}$ ) inch (1.27 centimeters) in any dimension.

20. “Public sewer” means a sewer owned by and subject to the jurisdiction of the City. It also includes sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sewer system, even though these sewers may not have been constructed with City funds.

21. “Replacement” means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the wastewater treatment plant to maintain the capacity and performance for which such plant was designed and constructed.

22. “Residential user” means any user of the wastewater treatment facilities where permanent residency is established and only sanitary wastes are discharged.

23. “SS” denotes “suspended solids” and means solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in *Standard Methods*.

24. “Sampling manhole” means a structure located on a building lateral for the purpose of providing access to sample or measure wastewater discharges.

25. “Sanitary sewer” means a public sewer that conveys wastewater, and into which storm, surface, ground and unpolluted waters are not intentionally admitted.

26. “Sanitary wastes” means any solid, liquid or gaseous substance discharged from residences, business buildings, institutions, commercial and industrial establishments contributed by reason of human occupancy.

27. "Sewage" is used interchangeably with "wastewater."
28. "Sewer" means a pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and groundwater drainage.
29. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and may adversely affect the collection system or performance of the wastewater treatment facilities.
30. "Standard methods" means the examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water and Wastewater* published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation.
31. "State Act" means Chapter 455B of the Code of Iowa as the same now exists or may hereafter be amended.
32. "Storm sewer" means a public sewer which carries storm, surface and groundwater drainage but excludes wastewater other than unpolluted water.
33. "TKN" denotes "Total Kjeldahl Nitrogen", the concentration of ammonia and organic nitrogen expressed in milligrams per liter.
34. "Unpolluted water" means water of quality equal to or better than the applicable effluent criteria in effect under the State or Federal Act or water that would not cause violation of receiving water quality standards under the applicable act and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
35. "Useful life" means the estimated period during which the wastewater treatment facilities will be operated and shall be 30 years from the date of start-up of any newly constructed wastewater treatment facilities.
36. "Wastewater" means the spent water of a community. It may be liquid or a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions.
37. "Wastewater service charge" means the charge levied on all users of the wastewater treatment facilities.
38. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

39. “Wastewater treatment facilities” or “wastewater system” means the publicly owned structures, equipment, and processes required to collect convey and treat wastewater.

40. “Water treatment plant” means a publicly owned arrangement of devices and structures for treating wastewater. Sometimes used as synonymous with “waste treatment plant” or “wastewater treatment facility” or “water pollution control plant.”

41. “Water quality standards” are defined in the Iowa Department Rules.

**95.02 DIRECTOR OF UTILITIES’ AUTHORITY.** The Director of Utilities shall have complete charge of the operation of the wastewater treatment plant under the general supervision of the City Administrator and subject to such rules and regulations as the Council may prescribe. He shall employ and have direct charge of all employees of the wastewater treatment plant.

**95.03 POWERS AND AUTHORITY FOR INSPECTION.**

1. Access to Private Property. The Director of Utilities 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 with regard to wastewater in accordance with the provisions of this Code of Ordinances. The Director of Utilities 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 public sewers, natural outlets or wastewater treatment facilities.

2. Duty of Care. While performing the necessary work on private properties referred to in subsection 1 above, the Director of Utilities or other duly authorized employees of the City shall observe all safety rules applicable to the premises.

3. Easement Access. The Director of Utilities 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 purpose of, but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater treatment facilities 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 easement.

4. Indemnity. While performing the necessary work on private properties referred to herein, the City or its duly authorized employees shall observe all safety rules applicable to the premises established by the person and the person shall be held harmless for injury or death to the City employees, and the City shall indemnify the person against loss or damage to property by City employees and against liability claims and demands for personal injury or property damage asserted against said person and growing out of the observation, measurement and sampling operation, except as such may be caused by negligence or failure of the person to maintain safe conditions as required herein.

**95.04 NOTICE TO CORRECT.** Any person found to be violating any provisions of these sanitary sewer chapters 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. Such notice may be given by certified mail or by personal service. If given by certified mail, the notice shall be deemed given when mailed. The offender shall, within the period of time stated in such notice, permanently cease all violations specified therein.

**95.05 OTHER REMEDIES.** Any person who shall violate any provisions of these sanitary sewer chapters shall be guilty of a misdemeanor, and each day in which such violation shall continue shall be deemed a separate offense. Any person violating any such provisions shall also be liable to the City for any damage, loss, cost or expense occasioned by reason of such violation. A violation of any such provisions shall be deemed to be a nuisance and the Council, after reasonable notice and opportunity for hearing, may:

1. Order necessary measures to correct and abate such violation and the Director of Utilities is authorized to enter on property to do so.
2. Order the service to the premises involved discontinued and authorize the Director of Utilities to disconnect any tapping or connections made to the wastewater system of the City. In the event a violation creates an immediate hazard to the wastewater treatment facilities or to the operation thereof, or to the health and safety of any person, the Director of Utilities is authorized and directed to perform all necessary acts, without prior notice or hearing, to correct and abate such violations and may enter on private property to do so.
3. Any damages to public or private property and damages, whether direct or indirect due to the loss of production, shall be borne by the person whose discharge was alleged to have created an immediate hazard, and subsequent corrective action.



The cost of any corrective measures required or permitted under the provisions of this section shall be a lien on the property served by the wastewater treatment facilities in connection with which such violation has occurred and shall be levied and collected by the Council as ordinary taxes. In addition to any other remedies provided for, the City may bring suit to collect any sums due it, including user charges, from the person or persons incurring the liability for the payment of such charges.

**95.06 APPEALS.** If the findings, order or decision of the Director of Utilities made in pursuance of the provisions of this chapter are not acceptable to any person, such person shall have the right to appeal to the Council and thereafter to the District Court within thirty (30) days after the Council decision, and the Iowa Rules of Civil Procedure shall thereafter apply to all such appeals.

**95.07 DAMAGING SEWER SYSTEM.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

**95.08 TREATMENT REQUIRED.** It is unlawful to discharge to any natural outlet within the City, or in any area under its jurisdiction, any wastewater, except where suitable treatment has been provided in accordance with provisions of these sanitary sewer chapters.

**95.09 COMPULSORY CONNECTION TO PUBLIC SEWER.** 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 sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and building a 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 thirty (30) days after date of official notice from the City to do so, provided said public sanitary sewer is located within two hundred fifty (250) feet of the property line of such owner and is of such design as to receive and convey by gravity, or by appropriate pressure sewer components, such sewage as may be conveyed to it.

*(Ord. 846 – Jul. 17 Supp.)*

## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit Required  
96.02 Application for Permit  
96.03 Sewer Connection Charge  
96.04 Connection Requirements  
96.05 Interceptors Required

96.06 Inspection Required  
96.07 Property Owner's Responsibility  
96.08 Abatement of Violations  
96.09 Deep Sewer Risers  
96.10 Public Sewer Construction

**96.01 PERMIT REQUIRED.** 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. Any connection to a public sewer within the jurisdiction of the City shall be subject to the rules and regulations of the City and to the charges, rates, rents, fees and assessments which are or may be established by the City as being applicable, and shall be made under permits issued by the City.

**96.02 APPLICATION FOR PERMIT.** Any property owner desiring to connect property with the City's sewer system shall file with the Director of Utilities a written application on a form furnished by the Utilities Department accompanied by a tapping fee of one hundred dollars (\$100.00) per unit. The said application shall state fully and truly the premises to be served, and all uses made of the sewer system. The Director of Utilities shall keep a correct record and plat of each sewer line and tap. The Director of Utilities shall issue a permit for such applications, which shall specify the kind and size of sewer tap along with type and size of service line and any other stipulations pertaining to the type of plumbing, equipment needed or treatment of the waste needed before it can be accepted into the City's sewer system. (*Ord. 763 – Jun. 06 Supp.*)

**96.03 SEWER CONNECTION CHARGE.** In those areas of the City where the City has previously constructed sanitary sewers at no expense to abutting property owners, a maximum charge shall be made of five dollars (\$5.00) per front foot, or as directed by the Council, to that portion of property served by the connection. Payment for such service shall be made to the City at the time a permit is issued to connect to the sanitary sewer in the amount to be determined by the City Administrator. The connection shall not be made until the payment has been made.

**96.04 CONNECTION REQUIREMENTS.** All installations of building sewers and connections to the public sewer shall be made by a plumber licensed by the City. Any connection with a public sanitary sewer must be made under the direction supervision of the Director of Utilities and in accordance with the following:

1. The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
2. No building sewer shall be connected to a public sewer with plastic pipe unless it meets a minimum quality of PVC-DWV Schedule 40 for both pipe and fittings.
3. Any connections made to the City sewer system shall be made with an approved sewer saddle, unless the Director of Utilities gives written permission for some other type of connection.
4. No person shall tap any public sewer at any other place than at the regular junction "tee" or "wye" built into the sewer, without specific authority from the Director of Utilities nor shall any connection be made with the public sewer except in the presence of the Director of Utilities or an authorized representative. Connections shall be made in accordance with the specifications of the City.
5. The Director of Utilities may issue a special permit allowing a homeowner to make certain repairs to a sewer service line following all rules set forth by the City.
6. When any building or structure is razed or moved, and the sewer service is discontinued, all sewer connections shall be properly stopped or cut off at the curb line, according to the specifications of the City and as approved by the Director of Utilities.
7. No connection shall be made to a public sewer for any facility located outside of the corporate limits of the City unless permission is specifically granted by resolution of the Council.

**96.05 INTERCEPTORS REQUIRED.** Grease, oil, or sand interceptors shall be provided upstream from the connection to a public sewer when in the opinion of the Director of Utilities they are necessary for the proper handling of liquid wastes containing grease, any inflammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of type and capacity

approved by the Director of Utilities and shall be located as to be readily and easily accessible for cleaning and inspection. With the filing of the application for sewer connection, the applicant shall provide sufficient information for the Director of Utilities to determine whether an interceptor is required. A permit shall not be issued until such time as the Director of Utilities makes a determination.

**96.06 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Director of Utilities. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Director of Utilities shall be notified and the Director of Utilities shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Director of Utilities refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.07 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.

**96.08 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 thirty (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])*

**96.09 DEEP SEWER RISERS.** In the event that a private sewer line has a sewer pipe extended to the City's sewer main, which is deeper than fifteen (15) feet, the City will assume the responsibility for the repairs of the sewer riser from the fifteen (15) foot level down to the City's main. The City will repair or replace such sewer risers in the best manner as determined by the City. The property owner shall be responsible for maintaining, repairing and/or replacing that portion of the riser which is less than fifteen (15) feet below the surface of the ground.

**96.10 PUBLIC SEWER CONSTRUCTION.** The construction of sewers which are to be connected to and become a part of the public sewer system shall be done in conformity with the City's specifications and the following requirements:

1. Plans shall be submitted to and approved by the Director of Utilities and a letter requesting permission to build shall be filed with and approved by the Council prior to commencement of work. Construction of said sewers shall be conducted in the presence of the Director of Utilities.
2. A two-year maintenance bond shall be placed on file upon completion and prior to acceptance of the work.
3. The construction of and use of combined sewers is hereby prohibited.

## CHAPTER 97

### USE OF PUBLIC SEWERS

97.01 Discharge Prohibited	97.09 Terms and Conditions of Discharge Permit
97.02 Storm Sewers	97.10 Change of Discharge Permit Terms and Conditions
97.03 Sanitary Sewers	97.11 Transfer of Permit Prohibited
97.04 Illegal Connections	97.12 Termination
97.05 Accidental Discharges	97.13 Sampling Manhole
97.06 Discharge Prohibited Except by Permit	97.14 Flow Measurement
97.07 Permit Required	97.15 Testing Wastes
97.08 Alternatives Upon Filing of Application	

**97.01 DISCHARGE PROHIBITED.** No person shall discharge or cause to be discharged any of the following described substances, materials, waters and/or wastes into any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other inflammable or explosive liquid, solid or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to deteriorate any public sewer, 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 the following list indicating maximum concentrations allowable in the wastes as discharged to the public sewer.

<u>Substance</u>	<u>Maximum Concentration (mg/l)</u>
Arsenic	.3 mg/l
Cadmium	1.0 mg/l
Chromium-Hexavalent	2.5 mg/l (total 5.0 mg/l)
Copper	4.6 mg/l
Cyanide	0.2 mg/l
Lead	1.6 mg/l
Mercury	.0026 mg/l
Nickel	3.6 mg/l
Zinc	5.0 mg/l

3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to the public sewer or structures, equipment, and personnel of the wastewater treatment facilities, or operation thereof.

4. 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 wastewater treatment plant 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.

**97.02 STORM SEWERS.** No wastewater except unpolluted waters shall be discharged to storm sewers. Storm waters and all other unpolluted water shall be discharged into such sewers as are specifically designed and designated as storm sewers or to a natural outlet approved by the City.

**97.03 SANITARY SEWERS.** No storm waters, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted water shall be discharged to any sanitary sewer. Where a storm sewer or natural outlet is not available, such unpolluted water may be discharged to a sanitary sewer only after written approval of the Director of Utilities. No person constructing a sanitary sewer, building, or house connection, shall leave same open, unsealed or incomplete in such a fashion to permit storm, surface or subsurface water to enter the sanitary sewer.

**97.04 ILLEGAL CONNECTIONS.** Any connections which discharge prohibited materials shall be considered illegal and shall be subject to immediate removal by owner of the premises so connected and at such owner's expense. Should the owner of such an illegally connected premises fail to remove the connection within sixty (60) days, the City shall cause the connection to be removed and the cost thereof shall be billed to the owner of the premises.

**97.05 ACCIDENTAL DISCHARGES.** The accidental discharge of any prohibited liquid, gaseous, or solid material into any public sewer or natural outlet, either directly or indirectly, shall be reported to the Director of Utilities immediately by the person responsible for the discharge. Although no penalty, as such, will be levied as a result of such accidental discharge, it shall be understood that the person shall not be relieved of its responsibilities and shall be liable for any expense, loss or damage occasioned by the City by reason of such accidental discharge.

**97.06 DISCHARGE PROHIBITED EXCEPT BY PERMIT.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes without a permit issued pursuant to Section 97.07.

1. Any water or wastes excluding sanitary wastes having:

- A. 5-day BOD greater than 10 lbs./day or
  - B. Suspended solids greater than 12 lbs./day or
  - C. Total Kjeldahl nitrogen great than 2 lbs./day or
  - D. Average daily flow greater than 5,000 gallons/day.
2. Any liquid or vapor having a temperature higher than 120° Fahrenheit (48° Centigrade).
  3. Any water or wastes which contain grease, fats, wax, or oil, whether emulsified or not, in excess of 100 mg/l, or other substances that will solidify or become discernibly viscous at temperatures between 32° and 150° Fahrenheit (0° to 65° Centigrade).
  4. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.75 hp. metric) or greater shall be subject to the review and approval of the Director of Utilities.
  5. Any water or wastes containing non-edible type oil or grease such as petroleum or mineral oil or grease.
  6. Any water or wastes that contain more than 10 parts per million by weight of the following gases: hydrogen sulfide, sulfur dioxide, or nitrous oxide.
  7. Any water or wastes that contain phenols or other taste and odor producing substances, in excess of 0.5 parts per million by weight.
  8. Any water or wastes, acid or alkaline in reaction, and having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the City.
  9. Any water or wastes containing any of the constituents listed in Section 97.01(2) or any other objectionable or toxic substances.
  10. Any water or wastes containing the discharge of strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
  11. Any noxious or malodorous gas or substances which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
  12. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director of Utilities in compliance with applicable State and Federal regulations.
  13. Materials which exert or cause:



A. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's 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.

14. Any water or wastes containing substances which are not amenable to treatment or reduction by the water pollution control processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meter the requirements of other agencies having jurisdiction over discharge to the receiving water.

15. Any water or waste which by interaction with the other water or wastes in the public sewer system, releases obnoxious gases or develops color of undesirable intensity; or forms suspended solids in objectionable concentration; or creates any other conditions deleterious to structures and treatment processes, shall be subject to control or shall be banned from the system as determined by the Director of Utilities.

16. Any wastes, which in the opinion of the Director of Utilities may harm either the public sewers, wastewater treatment facilities, treatment process, equipment, or have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.

**97.07 PERMIT REQUIRED.** Any person discharging the described substances, materials, waters or wastes as defined in Section 97.06 shall file an Application for a Discharge Permit with the Director of Utilities. The application shall contain the following information.

1. Name and address of owner;
2. Title of official making such application;
3. Location of plant;
4. The nature of business conducted in such plant;
5. The volume of industrial waste mixture and sewage discharged by each plant;
6. The average daily number of employees employed in each plant by shifts;

7. The source of water supply of each plant and the volume of water used by each such plant daily, specified separately as to each source;
8. Such additional information as is deemed applicable to ascertain the volume, nature and composition of industrial waste so discharged.

**97.08 ALTERNATIVES UPON FILING OF APPLICATION.** Upon receiving the application, the Director of Utilities' alternatives are as follows:

1. Accept the wastes,
2. Reject the wastes,
3. Require pretreatment to an acceptable condition for discharge to the public sewers,
4. Require control over the quantities and rates of discharge, and/or
5. Require payment to cover the added cost of handling and treating the wastes not covered by wastewater service charges under the provisions of Chapter 99.

**97.09 TERMS AND CONDITIONS OF DISCHARGE PERMIT.**

1. Terms. All wastewater discharge permits shall be expressly subject to all provisions of this chapter and all rates and charges established by the City. All permits shall be valid for one year and must be renewed thereafter. All permits shall contain the following terms:
  - A. The daily average and maximum wastewater flow volumes.
  - B. The average and maximum limits on the elements of the discharger's wastewater strength.
2. Conditions. Wastewater discharge permits may contain any or all of the following conditions.
  - A. For discharges which will require pretreatment to meet the terms of the permit:
    - (1) Facilities Approval. Plans, specifications and other pertinent information relating to such treatment facilities shall be submitted for the approval of the City and no construction of such facilities shall be commenced until said approval is obtained in writing.
    - (2) Facilities Maintenance and Records. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense and shall be subject to

periodic inspection by the City. The owner shall maintain operating records and shall submit to the City a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities.

B. Limits on rate and time of discharge or requirements for flow regulation and equalization.

C. Requirements for sampling manhole, including City access to such facilities.

D. Monitoring program which may include: sampling locations; frequency and method of sampling; number, types and standard of tests; and establishing a reporting schedule. The discharger assigned a monitoring program in conformance with this chapter shall pay all applicable City charges.

E. Submission of technical reports or discharge reports.

F. Maintenance of plant records relating to wastewater discharges, as specified by the Director of Utilities and affording City access thereto.

G. Other conditions as deemed appropriate by the Director of Utilities to insure compliance with this chapter or the terms and conditions of the permit.

**97.10 CHANGE OF DISCHARGE PERMIT TERMS AND CONDITIONS.** The Director of Utilities may change the terms and conditions of a wastewater discharge permit, including changing the average limits of the elements of the wastewater strength, from time to time as circumstances may require. The Director of Utilities shall allow a discharger reasonable time to comply with any required changes in the permit except that a change in average limits of wastewater strength shall immediately affect calculation of the sewage service charge.

**97.11 TRANSFER OF PERMIT PROHIBITED.** A wastewater discharge permit shall not be assigned or transferred.

**97.12 TERMINATION.** The Director of Utilities may terminate any wastewater discharge permit for violation of the terms and conditions of the permit or the provisions of this chapter. A person whose permit has been terminated shall apply for a new permit within thirty (30) days of notice of termination. Any person whose permit has been terminated shall pay wastewater service charges based upon the former permit until a new permit has been applied for, approved, and issued.

**97.13 SAMPLING MANHOLE.** Pursuant to Section 97.09(2)(C), a permittee shall be required to provide a suitable sampling manhole, unless this condition is waived by the Director of Utilities. The sampling manhole shall be located on the building lateral upstream from the connection to the public sewer, and provide for observing, flow measuring, and sampling of all wastes discharged by the permittee. The sampling manhole shall be provided with such utilities and equipment as required by the Director of Utilities. Such manhole, when required, shall be constructed by the owner in accordance with plans approved by the Director of Utilities. The manhole shall be installed by the owner at the owner's expense, and shall be maintained so as to be safe and accessible at all times.

**97.14 FLOW MEASUREMENT.** The volume of flow used in computing wastewater service charges shall be based upon actual in-situ flow measurements where available. In the event the Director of Utilities finds it is not practical to measure the actual wastewater discharge, the Director of Utilities may, at his or her discretion, require and/or approve the use of water meters or some other manner of computing or estimating the amount of wastewater discharged to the public sewer. Any person may request consideration for a reduction in wastewater service charges because of metered water excluded from the sanitary sewer by making written application to the Director of Utilities from such consideration.

**97.15 TESTING 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* or other methods approved by the Director of Utilities. Samples for testing shall be collected at the sampling manhole. In the event that no sampling manhole has been required, the sampling manhole shall be considered to be the nearest downstream control structure 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 wastewater treatment facilities and to determine the existence of hazards.

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## 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  
98.09 Minimum Lot Area

**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.

*(IAC, 567-69.1[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.

*(IAC, 567-69.1[3 & 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.

*(IAC, 567-69.1[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.

**98.09 MINIMUM LOT AREA.** No tract of land within the City which is not served by public sewer facilities shall be used for residence construction unless said tract shall have adequate area as determined by the County Health Department for the installation of a private waste disposal system. In no case, however, shall said tract contain less than fifteen thousand (15,000) square feet and have less than seventy-five (75) feet of frontage and less than one hundred thirty (130) feet of depth.

## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Payment of Service Charge Required  
99.02 User Group  
99.03 Basic Rates  
99.04 Monitoring

99.05 Payment of Bills  
99.06 Lien for Nonpayment  
99.07 Sewer Fund  
99.08 Lien Exemption

**99.01 PAYMENT OF SERVICE CHARGE REQUIRED.** The cost and expense of financing the construction, maintenance and the operation of the wastewater treatment facilities as can be so paid, shall be paid from funds accruing from the collection of wastewater service charges hereinafter stipulated. Every person whose premises is served by a connection to the sanitary sewer of the City either directly or indirectly, shall pay to the City a comprehensive wastewater service charge for the use of and for services supplied by the wastewater treatment facilities of the City. The charges shall consist of:

1. Basic user charge for Operation and Maintenance of the wastewater treatment facilities.
2. Basic user charge for the maintenance costs of the wastewater collection system.

**99.02 USER GROUP.** Wastewater service charge rates as herein established shall be according to user group:

Group I	Residential users
Group II	Commercial users and small industrial users without permits
Group III	Industrial users, permit required
Group IV	Special rates

**99.03 BASIC RATES.** The rates for comprehensive sewer service charges are as follows:

1. Group I: The total monthly billing for Group I sewer charges shall be \$5.00 for a sewer treatment charge then increased to \$8.00 July 1<sup>st</sup> 2016, and then \$10.00 July 1<sup>st</sup> 2021, plus an amount determined based upon water meter readings according to the following rate schedule:
  - A. 0 - 1,000 gallons \$15.64
  - B. > 1,000 gallons \$9.61 per 1,000 gallons

Sewer charges shall be due and payable monthly with the water bill. If any billing is delinquent for nonpayment by the fifteenth day of the



month of billing or when due, an additional penalty of five dollars (\$5.00) or ten percent (10%) of the net sewer bill, whichever is greater, shall be added to such delinquent bill.

2. Group II: The total monthly billing for Group II sewer charges shall be \$5.00 for a sewer treatment charge then increased to \$8.00 July 1<sup>st</sup> 2016, and then \$10.00 July 1<sup>st</sup> 2021, plus an amount determined based upon water meter readings according to the following rate schedule:

- A. 0 - 1,000 gallons \$15.64
- B. > 1,000 gallons \$9.61 per 1,000 gallons

Sewer charges shall be due and payable monthly with the water bill. If any billing is delinquent for nonpayment by the fifteenth day of the month of billing or when due, an additional penalty of five dollars (\$5.00) or ten percent (10%) of the net sewer bill, whichever is greater, shall be added to such delinquent bill.

*(Ord. 819 – Apr. 13 Supp.)*

3. Group III: The total monthly billing for Group III sewer service charges shall be \$5.00 for a sewer treatment charge then increased to \$8.00 July 1<sup>st</sup>, 2016, and then \$10.00 July 2021, plus an amount determined based upon water meter readings as outlined for Group II in subsection 2 and an amount based upon monthly average values obtained in-situ measurements and samples according to the following schedule:

- A. Flow in 1,000s gpd multiplied by (\$18.77)
- B. BOD in lbs. multiplied by (\$9.03)
- C. TSS in lbs. multiplied by (\$5.47)
- D. TKN in lbs. multiplied by (\$22.10)

*(Ord. 824 – Feb. 14 Supp.)*

4. The following are annual rate increases beginning on July 1<sup>st</sup> of each year to satisfy loan payments, capital improvements, maintenance and operational costs.

07/01/2013	20.0%	07/01/2016	5.0%
07/01/2014	8.0%	07/01/2017	5.0%
07/01/2015	5.0%	07/01/2018	5.0%
Each Year After	5.0%		

5. The Council may by resolution lower the sewer rate increases from 5.0% to no less than 2.0% after Fiscal year 2018-19 for reasons of low inflation in operations costs, increased usage that disperses overhead, or any other reason the Council sees fit. The minimum

increase of 2% is for capital improvement resources or depreciation costs for the sewer system.

6. Group IV: When the Director of Utilities determines, based on applicable standards, that special conditions surround the use of City water to the extent that the application of the basic charges provided herein would be inequitable or unfair to either the City or contributor, a special rate may be established by resolution of the Council. Such rates may include, among others, the following cases:

A. Where the nature of the use of City water is such that the resulting sewage or industrial waste has characteristics making it more difficult to process than ordinary domestic waste.

B. Where a major proportion of the City water consumed is not polluted and is not discharged into or does not reach the sanitary sewer.

C. Where privately produced water supplies are discharged directly or indirectly into the sanitary sewer. Such rates shall be on an equal basis as nearly as may be with the rates which would apply to an equal quantity and character of waste originating through the use of City water. It shall be the duty of every person responsible for the production of such private water supply to report forthwith to the Director of Utilities and further, to cooperate with the Director of Utilities in the determination of the quantity and character of the waste originating from each such respective private water supply. The Director of Utilities shall designate in each such special rate case any necessary means of measurement of such private water supply and resulting sewage flow, which meter or other means of measurement shall be installed by and at the expense of the contributor upon written order of the Director of Utilities.

*(Ord. 818 – Apr. 13 Supp.)*

**99.04 MONITORING.** All Group III permit holders connected to the sanitary sewer shall have their processed waste discharge monitored not less than biannually by the City according to their permit stipulation. Group I, II and IV user groups shall be monitored as deemed necessary by the Director of Utilities. The annual rate increases provided for in this subsection shall apply to those charges that are based upon volume or amount of use.

*(Ord. 824 – Feb. 14 Supp.)*

**99.05 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 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.

**99.06 LIEN FOR NONPAYMENT.** 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 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)*

**99.07 SEWER FUND.** All moneys received by the City from any source on account of the wastewater treatment facilities shall be kept in a separate fund and shall be paid out only upon legal warrants of the City.

**99.08 LIEN EXEMPTION.** Residential rental property where the charge for sewer services under this Chapter is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services 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. The City may require a deposit not exceeding the usual cost of ninety (90) days of sewer service to be paid to the City. Upon receipt, the City shall acknowledge the notice and deposit. The landlord's written notice shall contain the name of the tenant responsible for the charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall return the deposit if the sewer use fees are paid in full. A change in the ownership of the rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to service of sewer systems, storm water drainage systems, or sewage treatment if the repair charges become delinquent.

*(Ord. 823 – Feb. 14 Supp.)*

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## CHAPTER 100

### SUMP PUMP AND GROUNDWATER STANDARDS

100.01 Intent	100.06 Surcharge
100.02 Prohibited Water	100.07 Nuisance
100.03 Sump Pump and Rigid Pipe Installation	100.08 Penalty
100.04 Inspections	100.09 Hearing
100.05 Removal of Connections	

**100.01 INTENT.** The intent of this chapter is to comply with the Iowa Department of Natural Resources rules relating to the City of Eldora sewer discharge permits. In order to comply, the City of Eldora must establish rules and regulations governing the installation, use and discharge of sump pumps or other groundwater conveyance systems and to establish the penalty structures required to enforce said rules and regulations. The rules and regulations governing the use of sump pumps or other groundwater conveyance systems are being established:

1. To set forth uniform requirements for the installation, use and discharge of sump pumps or groundwater conveyance systems.
2. To prevent the introduction of clean surface water, including but not limited to, water from roof or cellar drains, springs, basement sump pumps and French drains into the sanitary sewers and wastewater collection system.
3. Because the City finds it essential to the maintenance of health, minimization of damage to property, and to maintain and preserve the life and capacity of the municipal infrastructure.

#### **100.02 PROHIBITED WATER.**

1. It is unlawful for any owner, occupant or user of any premises to direct into or allow any storm water, surface water, ground water, well water or water from industrial or commercial air conditioning systems (residential properties may have a twenty (20) gallon per day maximum discharge from air conditioning systems) to drain into the sanitary sewers and public wastewater collection system. No rainspout, or other form of surface drainage, and no foundation drainage or sump pump shall be connected or discharged into the sanitary sewer and public wastewater collection system.
2. Any new or existing construction in which a sump and pump have been or will be installed shall be required to install, inside the structure, a rigid pipe connection discharge in accordance with this chapter. It is unlawful to maintain any connection with the sanitary sewer carrying roof water, ground water, surface water or any other natural precipitation.

**100.03 SUMP PUMP AND RIGID PIPE INSTALLATION.**

1. A discharge pipe shall be installed through the outside foundation wall of the building with rigid pipe (plastic, copper or galvanized) one (1) inch inside diameter minimum, without valves or quick connections that would alter the path of discharge. The discharge shall be directed away from the foundation wall.
2. No discharge shall be directed so as to impact neighboring properties.
3. Where a sump pit exists in any building it shall have a pump installed with rigid piping as specified above.
4. Any plumber licensed in the City of Eldora who knowingly installs a sump pump and/or piping that is not in conformance with this chapter may lose their plumbing license privileges in the City for a period of one (1) year, following the opportunity for a hearing before the City Council.

**100.04 INSPECTIONS.** Property owners shall allow a City employee or a designated representative, satisfactory to the City, to inspect the building to confirm and document that there is no sump pump or other prohibited discharge into the wastewater collection system. The City may periodically re-inspect any building or premises to determine compliance with the requirements of this chapter. The initial inspection schedule will be developed by the Water/Sewer Superintendant and approved by City Council.

**100.05 REMOVAL OF CONNECTIONS.**

1. Any property owner who previously made any connection or installation in violation of this chapter shall immediately remove such connection or correct such an installation. If not removed or corrected within 30 calendar days after notice of the violation has been delivered personally or by certified mail to the owner, the City shall impose a surcharge in the amount provided by this chapter. The time frame for making corrections may be extended upon the approval of the Utility Superintendent for up to 90 days for cause, beyond the initial 30 day period.
2. The owner of a building or premises found to not be in conformance with this chapter during periodic re-inspections shall be subjected to a surcharge as provided herein starting from the previous date of inspection.

**100.06 SURCHARGE.**

1. If any property owner or contractor/builder refuses to allow the property under their control to be inspected in accordance with this chapter for the purposes of determining compliance, the utility billing account for the property shall, within 30 days of the date that admittance to the property is refused or denied, immediately become subject to a monthly surcharge which shall be applied to the sanitary sewer component of their utility bill. This surcharge shall commence on the 1<sup>st</sup> day of the month following the month when either the property owner or contractor/builder refuse to allow

the property under their control to be inspected by the City or to otherwise validate compliance in accordance with this chapter. This surcharge shall continue as long as no documentation satisfactory to the City to ascertain compliance with this chapter has been provided to the Utility Superintendent. This surcharge is intended to offset the added costs associated with having to treat and collect clear water unnecessarily when the status of a property's connection to the sanitary sewer system cannot be ascertained.

2. A surcharge of one hundred dollars (\$100.00) per month is hereby imposed on every sewer bill to property owners for the following conditions:

- A. Not in compliance with this chapter.
- B. Refusal of property inspection.

**100.07 NUISANCE.** The City may require a property to connect its sump pump discharge line to a City storm sewer or drainage tile, if available, and if, in the determination of the City it is necessary because the discharge from the sump pump is creating a nuisance or hazardous situation.

**100.08 PENALTY.** Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. The City will also retain any and all civil remedies including, but not limited to, injunction or abatement actions to remedy a violation.

**100.09 HEARING.** Any person aggrieved by any provision of this chapter must request a hearing before the City Council within 30 days following an inspection or the imposition of the surcharge. The finding of the City Council shall be final. Any person aggrieved by the actions of the City Council under the provisions of this chapter may seek such relief through the Courts as provided by law.

*(Ch. 100 – Ord. 822 – Feb. 14 Supp.)*

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## CHAPTER 101

# STORM WATER DRAINAGE UTILITY

101.01 Purpose

101.02 Definitions

101.03 Storm Water Drainage Utility Established

101.04 Rates

101.05 Payment of Bills

101.06 Lien for Nonpayment

101.07 Use of Generated Revenues

**101.01 PURPOSE.** The purpose of this chapter is to establish a Storm Water Drainage Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

**101.02 DEFINITIONS.** For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes the creation or maintenance of impervious surface(s) that causes or may cause an increase in the quantity, or decrease in quality, or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water drainage system.
2. "Storm and Surface Water Drainage System" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers associated therewith, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water within the City, to which sanitary sewage flows are not intentionally admitted.
3. "User" means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant or occupied property is deemed the user. But where a complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

If it is not possible, after reasonable inquiry, to determine the rightful occupant of the occupied property, the owner(s), individually or severally, shall be deemed to be the user(s).

**101.03 STORM WATER DRAINAGE UTILITY ESTABLISHED.** Pursuant to the authority of Section 384.84(5) of the *Code of Iowa*, as most recently amended, the entire territorial limits of the City is hereby declared to fall within the jurisdiction of the Storm Water Drainage Utility for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute the area covered by this Storm Water Drainage Utility.

*(Code of Iowa, Sec. 384.84[5])*

**101.04 RATES.** Each user shall pay for storm and surface water drainage service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each meter. The rates/charges shall be billed as part of the user's combined service account. (Combined service account meaning a customer service account for the provision of two or more utility services.) The City may adopt rules, charges, rates, and fees for the use of the City's storm and surface water system and for services provided by the City related thereto. Such rules may include delinquency fees, interest charges and/or penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's Storm Water Management Facilities/Storm and Surface Water Drainage System(s), the costs of bond repayment, regulation, administration, and the services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of one dollar (\$1.00) on every residential meter, and three dollars (\$3.00) per meter on every other, non-residential meter.

**101.05 PAYMENT OF BILLS.** All Storm Water Drainage Utility charges shall be 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. All City services 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 Sections 92.06 and 92.07 relating to lien exemptions and lien notices shall also apply in the event of a delinquent account.

*(Code of Iowa, Sec. 384.84[2b] and [2d])*

**101.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the 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[3a])*

**101.07 USE OF GENERATED REVENUES.** The City shall hold all funds generated from the enactment of this ordinance in one fund to be used for the construction and/or maintenance of municipal storm water management systems.

*(Ch. 101 – Ord. 866 – May 20 Supp.)*

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.08 Open Dumping Prohibited
105.02 Definitions	105.09 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.10 Waste Storage Containers
105.04 Health and Fire Hazard	105.11 Prohibited Practices
105.05 Open Burning Restricted	105.12 Sanitary Disposal Project Designated
105.06 Separation of Yard Waste Required	105.13 Nuisance
105.07 Littering Prohibited	105.14 Remedies

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control 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. “Director” means the director of the State Department of Natural Resources or any designee.

*(Code of Iowa, Sec. 455B.101[2b])*

3. “Discard” means to place, cause to be placed, throw, deposit or drop.

*(Code of Iowa, Sec. 455B.361[2])*

4. “Dumpster” means a storage container with a capacity larger than 100 gallons that is used primarily for the purpose of discarding or storing garbage, refuse, rubbish, or other solid waste.

5. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

6. “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.

*(IAC, 567-100.2)*

7. “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.

*(IAC, 567-20.2[455B])*

8. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

*(Code of Iowa, Sec. 455B.361[1])*

9. “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.

10. “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.

(IAC, 567-100.2)

11. “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.

(IAC, 567-20.2[455B])

12. “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.

(IAC, 567-100.2)

13. “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.

(IAC, 567-100.2)

14. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which 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.

(Code of Iowa, Sec. 455B.301)

15. “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.

*(Ord. 833 – Oct. 14 Supp.)*

*(Ord. 825 – Feb. 14 Supp.)*

**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 seven (7) 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)*

*(Ord. 701 – Feb. 00 Supp.)*

**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:

*(IAC, 567-23.2[455B] and 567-100.2)*

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.

*(IAC, 567-23.2[3a])*

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.

*(IAC, 567-23.2[3b])*

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.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises, provided such burning is limited to small quantities of landscape waste burned upon a person's own premises when wind conditions permit. A small quantity of landscape waste is defined to be a pile six (6) feet in diameter or smaller. A responsible adult shall be in attendance at the fire at all times and shall douse the coals and cinders with water when the burning is completed. The person causing such burning shall be liable for any damage or loss of property or life. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) 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.

*(IAC, 567-23.2[3d])*

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.

*(IAC, 567-23.2[3e])*

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

7. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers 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.

*(IAC, 567-23.2[3h])*

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

9. Special Permit. In addition, the Council may, by special permit, approve and allow open burning where the applicant demonstrates such burning does not pose a significant health or safety risk to the public. Applicants for special permits shall pay a fee set by resolution of the Council. The application for special permit shall set forth the time and date of the proposed burning, the reasons therefor and the measures taken to ensure safety and control of the burning. *(Ord. 857 – Oct. 19 Supp.)*

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

*(IAC, 567-23.2[2])*

The Fire Chief has the authority to ban all open burning where the weather conditions and level of dryness make such burning hazardous.

**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 or placed in acceptable containers and set out for collection. 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.

**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 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a



special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

*(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)*

**105.09 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. 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 which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2)*

*(IAC, 567-102.14[2] and 400-27.14[2])*

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

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; 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. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curbside no more than 24 hours before scheduled pick up and returned to appropriate location no later than 24 hours after pickup.

*(Ord. 765 – Aug. 06 Supp.)*

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

5. Dumpsters. The use of one or more dumpsters for residential waste for all single or two family dwellings is prohibited unless otherwise expressly permitted under this chapter. Mobile home parks, multiple family dwellings with three or more units within one structure, and commercial buildings with apartments shall all be exempted from any such prohibition, but only if these properties have a clearly designated site for dumpsters that are accessible by the tenants or occupants thereof. Any and all permitted dumpsters that may be placed in City parking, streets and roads must have reflective tape on all corners and sides so that their containers are more visible. All dumpsters must comply with the provisions of Chapter 106 of the Eldora Code of Ordinances dealing with frequency of collection.

6. Permitted Dumpsters for Bulky Waste. One or more dumpsters used primarily for the purpose of disposal of construction, renovation, and any other bulky waste other than regular residential waste may be placed upon a residential property or in the City parking only after obtaining a permit from the City. Dumpsters may also be approved by permit for placement on City streets and roads, with the exception of traveled portions of Washington Street from 11th Avenue south to the corporate City limits and traveled portions of all of Edgington Avenue. A dumpster permit may be issued by the City Clerk upon completion of a permit form and payment of a fee set by resolution. A dumpster permit issued by the City Clerk shall be valid for 60 days. If an applicant requires a permit beyond 60 days, the applicant must pay an additional fee set by resolution and the City Clerk may issue one 60 day extension. Three-hundred and sixty-five (365) days must pass from the first day of a valid dumpster permit before another permit may be issued for the same property. Any other exceptions to allow dumpsters that are normally prohibited must be expressly approved by the City Council upon a showing of extraordinary circumstances justifying issuance of a permit and with any conditions or limits the City Council deems appropriate. *(Ord. 857 – Oct. 19 Supp.)*

7. Permitted Dumpsters for In-House Occupations. One dumpster may be used for approved in-house occupations for each single or two-family dwelling, but only on the following conditions:

A. All such dumpsters must be regularly emptied as required under Sections 105.03, 106.04 and 106.05 of the Eldora Code of Ordinances.

B. All such dumpsters must be placed in some form of enclosure that blocks visibility of the dumpster from a minimum of three sides, but a dumpster may not be placed within the primary dwelling. If a dumpster is not enclosed in a lawfully erected accessory building, then a privacy fence may be used. Any such privacy fence must be affixed to the ground and may not be warped, buckled, unstable or unsightly. The dumpster may also be surrounded on three sides by mature shrubs or bushes that are taller than the dumpster, but such shrubs or bushes must retain foliage year round. Combinations of these options may also be utilized to meet the requirements of this section. For purposes of this section, visibility of the dumpster is measured from the viewpoint of both the general public and adjacent landowners at ground level.

C. The resident or property owner using the dumpster must hold a valid permit for the dumpster. Permits shall be issued by the City Clerk upon application and payment of any fee set by resolution unless the applicant or the person in possession of the residential premises has had such a permit revoked within the past 365 days.

D. The dumpster may not be permitted to be stored in the front yard as defined by the Eldora Code of Ordinances.

E. A violation of any part of Chapter 105 or 106, including the requirements of this section, may result in a revocation of the dumpster permit and a loss of the right to utilize a dumpster for In-House Occupations waste for a period of 365 days.

*(Ord. 841 – Oct. 15 Supp.)*

8. Collector's Responsibility. It is the responsibility of the contracted collector to place a dumpster in an approved area after receiving verification that a permit has been completed and approved.

9. Emergency Exceptions. In the event of emergencies such as, but not limited to, sewer back up, fire repair, natural disaster or nuisance abatement ordered by the City, a property owner, resident, contractor or other party may utilize a dumpster without obtaining a permit in advance of such use. However, a permit must be applied for within 72 hours of placement of the dumpster. If the permit is denied, the dumpster must be removed within 72 hours of the denial of the permit. Any dumpster utilized under this section that is placed in City parking or streets or roads must still have reflective tape on all corners and sides.

*(Ord. 825 – Feb. 14 Supp.)*

**105.11 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 which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.12 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Hardin County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

**105.13 NUISANCE.** It is hereby declared that a violation of the provisions of this Chapter constitutes a threat to the health and safety of the citizens and such a violation is a nuisance within the meaning of Section 657.1 of the Code of Iowa and Chapter 50 of this Code of Ordinances.

*(Ord. 830 – Oct. 14 Supp.)*

**105.14 REMEDIES.** The remedies for enforcement provided in this Chapter are not exclusive and do not preclude the City from enforcing the provisions of this Code of Ordinances by other lawful means, including but not limited to criminal citations, municipal infractions, civil penalties, civil lawsuits and alternative reliefs or remedies contemplated by this Code of Ordinances or state law. *(Ord. 830 – Oct. 14 Supp.)*

## 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 Collector's License  
106.08 Landfill Use Fee  
106.09 Lien for Nonpayment  
106.10 Lien Exemption

**106.01 COLLECTION SERVICE.** The collection of solid waste within the City shall be only by collectors licensed by the City.

**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 leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

**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 which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 COLLECTOR'S LICENSE.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the Clerk and provide the following:

A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury: — \$100,000 per person.  
— \$300,000 per occurrence.

Property Damage: — \$ 50,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. License Fee. A license fee set by resolution shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant. *(Ord. 826 – Feb. 14 Supp.)*

4. License Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. License Not Transferable. No license authorized by this chapter may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the 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.

8. Grading or Excavation Excepted. No license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

9. Charges. Any person holding a license to haul solid waste in the City shall charge based upon the volume of solid waste generated. These volume-based charges may be made through the number of containers or bins utilized or upon actual weight of solid waste collected.

10. Filing of Description of Basis of Charges. All collectors shall file, in writing, a description of their volume or weight-based system concerning solid waste. Such a volume or weight-based system shall create a financial incentive to recycle and reduce the volume of solid waste generated. Filing of this required written statement is a condition which must be satisfied prior to the issuance of the collector's license. At a minimum, the plan shall provide:

- A. A minimum charge for every container collected;
- B. A size limitation that containers shall not exceed 33 gallons;
- C. A weight limitation that containers shall not exceed 50 pounds;
- D. A requirement that all containers be tagged for collection, the minimum cost of each tag shall be set by Council resolution.

11. Compliance with Law.

A. All collectors licensed pursuant to this section shall comply with all statutes, ordinances, rules and regulations of all State, Federal and local authorities associated with the collection, transportation and processing of solid waste.

B. Upon request of the City, collectors shall provide such documentation as may be necessary to prove a customer's compliance with the conditions required for utilizing a dumpster for regular residential waste. Such documentation shall include billing and/or payment information.

C. All collectors may be held accountable through loss of license for their customer's misuse of services or containers provided by the collector once the collector is notified by the City of the misuse or violation and collector fails to correct the situation. Correction may be in the form of removal of service, removal of containers provided by the collector or through other means agreed upon by the code enforcement designee and collector. Any such agreement for manner of correction is (i) not transferable, (ii) not automatically renewable and (ii) is subject to rejection or amendment at any time by the City Council.

D. The City reserves the right to revoke or amend any license granted under this section on thirty days' written notice if the collector violates any statutes, ordinances, rules or regulations of all State, Federal and local authorities associated with the collection, transportation and processing of solid waste.

E. A licensed collector shall have the right to request a public hearing on the revocation or amendment of the license by submitting a written request to the City Clerk within fifteen (15) days of receipt of written notice of the City's intent to revoke or amend the collector's license. Any decision rendered by the City upon conclusion of the public hearing shall be final.

12. Suspension of Dumpster Use. If it has been determined by City Code Enforcement personnel that a user of dumpster for regular residential waste has violated any ordinances related to the use or placement of dumpsters, a 365 day revocation of the right to use a dumpster for regular residential waste may be ordered and all collectors must comply with said order.

13. Reapplication. If at any time a collector's license is revoked or amended by the City, they may reapply after correcting the violation(s) which caused the cancellation or amendment. Any such application shall require the payment of a new license fee under section 106.07(3).

*(Ord. 826 – Feb. 14 Supp.)*

The City reserves the right to cancel or amend any license granted under this section on thirty days' notice.

#### **106.08 LANDFILL USE FEE.**

1. Fee. The disposal of solid waste as provided by this chapter is declared to be beneficial to the property served and there shall be levied and collected a landfill use fee therefor in the amount of six dollars and fifty cents (\$6.50) per month per water user.

*(Ord. 806 –Apr. 12 Supp.)*

2. Multiple Usage Water Meters. When any one meter serves more than one apartment, store or mobile home, the fee shall be charged by the number of units served by the meter and the bill shall be computed by multiplying the number of units times the fee to determine the total bill.

3. Payment of Bills. All fees 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. 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.** The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for landfill use fees. Fees



remaining unpaid and delinquent shall constitute a lien upon the 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)*

**106.10 LIEN EXEMPTION.** Residential rental property where the charge for landfill use fees under this Chapter is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services 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. The City may require a deposit not exceeding the usual cost of ninety (90) days of landfill use fees to be paid to the City. Upon receipt, the City shall acknowledge the notice and deposit. The landlord's written notice shall contain the name of the tenant responsible for the charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall return the deposit if the landfill use fees are paid in full. A change in the ownership of the rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to solid waste collection or solid waste disposal if the repair charges become delinquent.

*(Ord. 823 – Feb. 14 Supp.)*

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## 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 Franchise Fees  
110.07 Management Fees  
110.08 Nonexclusive  
110.09 Term of Franchise  
110.10 Entire Agreement

**110.01 FRANCHISE GRANTED** There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of the ordinance codified by this chapter,<sup>†</sup> 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; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The Company shall consult with the City in advance of the exercise of this right so as to minimize the impact of any taking. 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 not to 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 said 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, Company, its successors and assigns, at its sole expense 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

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 812 adopting a gas franchise for the City was passed and adopted by the Council on November 28, 2011.

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, 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 thereof, 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 any reason other than as specified above, or as the result of the initial request of a commercial or private developer, 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 as part of its relocation process. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

**110.05 SERVICE REQUIREMENTS.** Said Company, 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, that 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. The Company shall provide its own meters or system in calculating usage.

**110.06 FRANCHISE FEES.**

1. In its monthly billing the Company shall include a franchise fee of three percent (3%) on the gross receipts from the sale of natural gas to the Company's natural gas customers located within the corporate limits of the City. *(Ord. 864 – May 20 Supp.)*
2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of

the franchise fee shall be shown separately on the utility bill to each customer.

3. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of its amended tax rider tariff from the Iowa Utilities Board.

4. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee.

5. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

6. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

7. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any

changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

8. The City shall give the Company a minimum six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to subsection 1 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

9. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

10. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

11. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell natural gas to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the

franchise fee upon all persons selling natural gas to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, “Final Franchise Fee Action”) that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee Ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified below with no liability therefor, if:

(1) The imposition, collection or remittance of a franchise fee is judicially determined to be unlawful by a court of competent jurisdiction within the State of Iowa. Such determination shall be effective only after all available appeals have either been exhausted or have expired; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

12. Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along and under the streets, avenues, alleys and public places in the said City 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 shall be exempt from any special tax, assessment, license or rental charge during the entire term of this chapter.

**110.07 MANAGEMENT FEES.** The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

**110.08 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**110.09 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of twenty-five (25) years from the after its acceptance by the Company, as herein provided.

**110.10 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. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City as of the date this franchise ordinance is accepted by 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 other than those approved and accepted by the Company within this chapter that create additional burdens upon the Company or which delay utility operations.

*(Ch. 110 – Ord. 812 – Apr. 12 Supp.)*



## CHAPTER 111

### ELECTRIC FRANCHISE

111.01 Franchise Granted	111.07 Nonexclusive
111.02 Poles and Wires; Indemnification	111.08 Continuous Service
111.03 Excavations	111.09 Franchise Fee
111.04 Construction and Maintenance	111.10 Management Fees
111.05 Meters	111.11 Term of Franchise
111.06 System Requirements	111.12 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, reconstruct, erect, maintain and operate in the City 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 distribution of electric current along, under and upon the streets, alleys and public places in the said 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 twenty-five (25) years; † also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The Company shall consult with the City in advance of the exercise of this right so as to minimize the impact of any taking.

**111.02 POLES AND WIRES; INDEMNIFICATION.** The poles, lines, wires, circuits and other 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 to the extent 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, at its sole expense 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

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† EDITOR’S NOTE: Ordinance No. 811 adopting an electric franchise for the City was passed and adopted on November 28, 2011.

the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

**111.04 CONSTRUCTION AND MAINTENANCE.** The Company shall, at its cost, 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 thereof, 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 any reason other than as specified above, or as the result of the initial request of a commercial or private developer, 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 as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

**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 FRANCHISE FEE.**

1. In its monthly billing the Company shall include a franchise fee of three percent (3%) on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City. *(Ord. 865 – May 20 Supp.)*
2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.
3. The Company will commence collecting the franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of the amended tax rider tariff from the Iowa Utilities Board.
4. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.
5. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise

fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

6. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

7. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to this section. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

8. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

9. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

10. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the franchise term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified in the franchise ordinance with no liability therefor, if:

(1) Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court

of Iowa, effective as of the date of such ruling or as may be specified by that Court; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

11. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this chapter.

**111.10 MANAGEMENT FEES.** The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

**111.11 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of twenty-five (25) years from the after its acceptance by the Company, as herein provided.

**111.12 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. Upon written acceptance by the Company, this franchise ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City as of the date this franchise ordinance is accepted by 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, other than those approved and accepted by the Company with this chapter, that create additional burdens upon the Company or which delay utility operations.

*(Ch. 111 – Ord. 811 – Apr. 12 Supp.)*

## CHAPTER 112

### CABLE TELEVISION REGULATIONS

112.01 Definition of Terms

112.02 Grant of Franchise

112.03 Standards of Service

112.04 Regulation by Franchising Authority

112.05 Compliance and Monitoring

112.06 Insurance, Indemnification and Bonds or Other Surety

112.07 Enforcement and Termination of Franchise

112.08 Regulation of Rates

112.09 Filing Reports, Maps, Petitions

112.10 Miscellaneous Provisions

**112.01 DEFINITION OF TERMS.** For the purpose of this chapter, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below.

1. “Affiliate” means an entity which owns or controls, is owned or controlled by, or is under common ownership with grantee.
2. “Basic cable service” means the tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.
3. “Cable service” means (a) the one-way transmission to subscribers of video programming or other programming service, and (b) subscriber interaction, if any, which is required for the selection of such video programming.
4. “Cable system” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control designed to provide cable service which includes video programming and which is provided to multiple subscribers within the service area.
5. “FCC” means the Federal Communications Commission, or successor governmental entity thereto.
6. “Franchise” means the nonexclusive authorization, or renewal thereof (including a renewal of an authorization which has been subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise which authorizes the construction or operation of a cable system.
7. “Franchising authority” means the City of Eldora, Iowa or the lawful successor, transferee or assignee thereof.
8. “Grantee” means Cablevision IV, Ltd., or the lawful successor, transferee or assignee thereof.



9. “Local gross revenues” means any revenue received by the grantee from the operation of the cable system in the service area. Such phrase does not include: 1) any tax or assessment of general applicability collected by the grantee from subscribers/customers for pass-through to a government agency; 2) unrecovered bad debt.
10. “Person” means an individual, partnership, association, joint stock company, trust corporation or governmental entity.
11. “Public property” means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the franchising authority in the service area which shall entitle the franchising authority and the grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. Public property also means any easement now or hereafter held by the franchising authority within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall, within their proper use and meaning, entitle the franchising authority or the grantee to the use thereof for the purpose of installing or transmitting grantee’s cable service or other service over poles, wires, cables, conductors, ducts, conduits, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.
12. “Service area” means the present municipal boundaries of the franchising authority, and includes any additions thereto by annexation or other legal means.
13. “Service tier” means a category of cable service or other services provided by grantee and for which a separate charge is made by grantee.
14. “Subscriber” means a person or user of the cable system who lawfully receives cable services therefrom with grantee’s express permission.

15. Video programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

#### **112.02 GRANT OF FRANCHISE.**

1. Franchise Granted. The franchising authority hereby grants to the grantee a nonexclusive franchise which authorizes the grantee to construct and operate a cable system in, along, among, upon, across, above, under or in any manner connected with public ways within the service area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any public way such facilities and equipment as may be necessary or appurtenant to the cable system.

2. Favored Nations. In the event the franchising authority enters into a franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the grantee to enter into the franchising authority’s streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.

3. Term. The franchise granted hereunder shall be for an initial term of seven (7) years commencing on the effective date of the franchise as set forth in Section 112.10, unless otherwise lawfully terminated in accordance with the terms of this chapter. The term shall be extended an additional three (3) years for a total term of ten (10) years if the grantee expands the channel capacity beyond 36 channels utilizing digital compression technology prior to twenty-four (24) months following the commencement date of the franchise set forth in Section 112.10. Franchising authority may request grantee participate in an independent technical audit before year five (5) of the franchise agreement to determine if system and digital compression technology meets or exceeds FCC technical standards uniformly throughout all areas of the cable system. If a positive determination is made in the audit, franchising authority shall grant an additional two (2) years of term for a total term of twelve (12) years. Franchising authority may waive the independent technical audit and grant the additional two (2) years of term. Upon the grantee upgrading the infrastructure (rebuilding to increase bandwidth) of the cable system before the end of year seven (7)

of the agreement as well as completing the aforementioned improvements, the term will be extended to a full fifteen (15) years.

### **112.03 STANDARDS OF SERVICE.**

1. Use of Property. The grantee may use public rights of way within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereinafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

A. The grantee shall comply with all lawful Federal, State and local laws, ordinances and rules as well as regulations adopted pursuant to the City's lawful police powers.

B. The grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:

- (1) Impair the owner's interest in or title thereto.
- (2) Impair the mortgage or lease as may now or hereinafter be applicable thereto.
- (3) Adversely affect the then value or character thereof.
- (4) Cause or be likely to cause structural damage thereto, or any part thereof.
- (5) Cause or be likely to cause any damage or injury to any utility service available thereto.
- (6) Create a public or private nuisance, cause any offensive or obnoxious vibration, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and person lawfully on or about the same.
- (7) Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or
- (8) Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

2. Interference. The grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with emergency communications and transmissions, including but not limited

to ambulance, fire, police and civil defense nor the radio and television reception of persons who are not subscribers of the grantee. The City shall take all reasonable steps to insure that its communications systems do not interfere with the grantee's cable system or subscribers' reception thereof.

3. Compliance with Applicable Laws. During the term of the franchise the grantee shall comply with all Federal and State laws, ordinances, rules or regulations as may now be hereinafter applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereinafter be consistent with generally accepted principles applicable to the operation of a cable system.

4. Service Requirements. During the term of the franchise, the grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the grantee, with the approval of the City which shall not be unreasonably withheld.

5. Performance Standards. The grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper audio on typical standard television sets in good repair. The grantee shall also transmit signals of adequate strength to produce good pictures with good audio at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems. The grantee shall maintain signal quality in accordance with accepted industry standards throughout the duration of the franchise.

A. Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines and equipment installed or erected by the grantee pursuant to the terms thereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.

B. Restoration of Public Property. If during the course of grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public property by grantee, it shall, at its expense, replace and restore such public

way to a condition reasonably comparable to the condition of the public property existing immediately prior to such disturbance.

C. Relocation at Request of Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than fifteen (15) business days, the grantee shall, at its own expense, protect, support, temporarily disconnect, relocate upon public property, or remove from the public property, any property of the grantee when lawfully required by the franchising authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvement by the franchising authority; but, the grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the grantee.

D. Relocation at Request of Third Party. The grantee shall, on the request of any person holding a building moving permit issued by the franchising authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the grantee, making such payment in advance; and (b) the grantee is given not less than ten (10) business days' advance written notice to arrange for such temporary wire changes.

E. Trimming of Trees and Shrubbery. The grantee shall have the authority to trim trees upon and 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 cables of the grantee. All trimming shall be done at the expense of the grantee and in accordance with City standards.

F. Safety Requirements. Construction, installation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other Federal, State, and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of person or property in the service area.

G. Aerial and Underground Construction. In those areas of the service area where all of the transmission or distribution

facilities of the respective public utilities providing telephone communications and electric services are under ground, the grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities under ground; provided, that such facilities are actually capable of receiving grantee's cable and other equipment without technical degradation of the cable system's signal quality. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and under ground, grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this section shall require grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed under ground after the effective date hereof, grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities under ground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed under ground.

H. Line Extensions. Grantee shall extend its cable television system to newly annexed areas as rapidly as possible. However, under procedures hereafter established, the grantee may defer service when service would otherwise be required hereunder for those places, addresses, sites or locales of the City where due to sparse population or unusually difficult construction conditions, service would be economically noncompensatory to the grantee. The procedure for obtaining the right to so defer service shall be as follows:

(1) File with the Utilities Committee and publish once each week for two (2) weeks in a newspaper of general circulation in the City a map of the City on which there shall be clearly and precisely shown those places, addresses, sites or locales of the City to which the grantee intends to defer service as aforesaid and further stating:

(a) That the costs and computations showing that service to the subject areas will be noncompensatory to the grantee is on file at the Eldora Public Library and there available for study and copying by any person on request.

(b) That any person opposed to all or any part of or place of such proposed deferral may file a written protest in the office of the City Clerk for the City.

(2) For those places, addresses, sites or locales for which no written objection is filed by five o'clock (5:00) P.M. on the tenth business day following the last date of publication, the deferral shall be final and in effect, unless or until protested and denied by the Utilities Committee as hereafter provided.

(3) For those places, addresses, sites, or locales for which a protester can provide written, documented evidence showing that the grantee's projected costs of service are unreasonably high or that projected revenues are unreasonably low, the Utilities Committee shall, after notice and an opportunity for public hearing, approve or deny the deferral of service.

(4) The cable system, as constructed as of the date of the passage and final adoption of this chapter, substantially complies with the material provisions hereof. Whenever the grantee shall receive a request for service from at least 15 residences within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its cable system to such customers at no cost to said customers for cable system extension, other than the usual connection fees for all customers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition or market development of the cable system or as provided for under subsection I of this section.

I. Subscriber Charges for Extensions of Service. No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as subscriber's request to locate his cable drop under ground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to subscribers, or a density of less than fifteen (15) subscribers per one thousand three hundred twenty (1,320) cable-bearing strand feet of trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by grantee and subscribers in the area in which cable service may be expanded, grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of potential subscribers per one thousand three hundred twenty (1,320) cable-bearing strand feet of its trunk or distribution cable, and whose denominator equals fifteen (15) subscribers. Potential subscribers will bear the remainder of the construction and other costs on a pro rata basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance.

J. Service to Public Buildings. The grantee shall provide without charge, one outlet of basic service to the franchising authority's office buildings, library(ies), fire station(s), police station(s), and public school buildings that are passed by its cable system. The outlets of basic cable service shall not be used to distribute or sell cable services in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this section, the grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition, or market development of the cable system to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one hundred fifty (150) cable feet. In the



event that additional outlets of basic cable service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including but not limited to labor and materials.

#### **112.04 REGULATION BY FRANCHISING AUTHORITY.**

1. Franchise Fee:

A. Sums Due City. During the term of a franchise, a grantee shall pay to the City a sum of money equal to two percent (2%) of the gross revenues accruing from services rendered within the City. Sales tax or other taxes levied directly on a per subscriber basis and collected by a grantee shall not be included in computation of sums due the City. Said fees shall be paid quarterly not later than August 15, November 15, February 15 and May 15 for the preceding three (3) month period ending, respectively, June 30, September 30, December 31 and March 31. Not later than the date of each payment, grantee shall file with the City Council, a written statement signed under penalty or perjury by an authorized representative of the grantee, which identifies in detail the sources and amounts of gross revenues received by a grantee during the quarter for which payment is made. Grantee shall increase the franchise fee payment to City using the following schedule upon receiving written notice from City no less than 45 days prior to the corresponding dates in the schedule. Nothing in this agreement shall prohibit the City from electing not to take the scheduled increase in franchise fee payments. Franchise fee shall increase to 3.5% for year two of the term of the franchise and shall increase to 5% for year three through the end of the term of the franchise.

(1) No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount.

(2) No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.

(3) Any franchise fees which remain unpaid after the dates specified above shall be delinquent and shall

thereafter accrue interest at the maximum legal rate until paid.

(4) The City shall have the right to inspect at all times during business hours a grantee's record of or pertaining to the local gross revenue from which its franchise payments are computed and the right of audit and recomputation of any and all amounts paid under a franchise. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under a franchise or for the performance of any other obligation thereunder.

B. Limitation of Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment by the grantee is due. Unless within five (5) years from and after said payment due date the franchising authority initiates a lawsuit for recovery of such franchise fee in a court of competent jurisdiction, such recovery shall be barred, and the franchising authority shall be stopped from asserting any claims whatsoever against the grantee relating to any such alleged deficiencies.

2. Rates and Charges. Grantee shall have the right, privilege, and authority to charge reasonable rates and charges to its subscribers for its services. The franchising authority reserves the right to reimpose rate regulation should the law change in this regard.

3. Service Rules and Regulations. The grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise.

4. Service Agreements. The grantee shall have the right to prescribe a reasonable form of service agreement for use between the grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

5. Renewal of Franchise.

A. The franchising authority and the grantee agree that any proceedings undertaken by the franchising authority that relate to the renewal of the grantee's franchise shall be governed by and comply with the provisions of 1984, 1992 or applicable Cable Act (as such existed as of the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law.

B. In addition to the procedures set forth in said section 626(a), the franchising authority agrees to notify grantee of its preliminary assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of grantee under the then current franchise term. The franchising authority further agrees that such a preliminary assessment shall be provided to the grantee prior to the time that the four (4) month period referred to in subsection (c) of section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this section, the grantee and franchising authority agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the franchising authority and grantee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the franchising authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

6. Conditions of Sale.

A. Except to the extent expressly required by Federal or State law, if a renewal or extension of grantee's franchise is denied or the franchise is lawfully terminated, and the franchising authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be a fair market value, determined on the basis of the cable system valued as a going concern.

B. Grantee and franchising authority agree that in the case of a lawful revocation of the franchise, at grantee's request, which shall be made in its sole discretion, grantee shall be given a reasonable opportunity to effectuate a transfer of its cable system to a qualified third party. The franchising authority further agrees

that during such a period of time, it shall authorize the grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the franchising authority, grantee and franchising authority may avail themselves of any rights they may have pursuant to Federal or State law; it being further agreed that grantee's continued operation of its cable system during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights or either the franchising authority or the grantee. Notwithstanding anything to the contrary set forth in this section, neither franchising authority nor grantee shall be required to violate Federal or State law.

7. City's Right to Purchase System. The City shall be entitled to a right of first refusal of any bona fide offer to purchase the cable system made to grantee if the cable system is being sold separately and such sale is not linked in any way to the sale of any other cable system in a separate franchise area. "Bona fide offer" as used in this section means a written offer which has been accepted by grantee subject to the City's rights under this agreement. The City shall notify grantee of its interest in purchasing the cable system within thirty (30) days of the City's receipt from grantee of a copy of the written bona fide offer. Payment shall be made upon closing in readily available funds within one hundred twenty (120) days of the City's receipt from grantee of a copy of the written bona fide offer. The price to be paid by the City shall be:

A. The fair market value of the cable system or the actual price which has been negotiated at arm's length between the parties, whichever is greater or:

B. The amount offered in the bona fide offer if only the Eldora Cable System is purchased.

8. Transfer of Franchise. Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered except to an affiliate without the prior consent of the franchising authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of grantee in the franchise or cable system in order to secure indebtedness.

**112.05 COMPLIANCE AND MONITORING.**

1. Testing for Compliance. The franchising authority may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the grantee or the cable system in order to determine whether or not the grantee is in compliance with the terms hereof and applicable State or Federal laws. Except in emergency circumstances, such tests may be undertaken only after giving grantee reasonable notice thereof, not to be less than two (2) business days, and providing a representative of grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the grantee. In the event that such testing demonstrates that grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the franchising authority. Except in emergency circumstances, the franchising authority agrees that such testing shall be undertaken no more than two (2) times a year in the aggregate, and that the results thereof shall be made available to the grantee upon grantee's request.

2. Books and Records. The grantee agrees that the franchising authority may review such of its books and records, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The franchising authority agrees to treat any information disclosed by the grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

3. Access. The grantee shall and does hereby grant to the City the right to enter upon the property of the grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes of monitoring compliance with this agreement to the extent consistent with the lawful rights of the City.

**112.06 INSURANCE, INDEMNIFICATION AND BONDS OR OTHER SURETY.**

1. Insurance Requirements. The grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

- A. Insurance verified with a certificate of insurance provided to the franchising authority to protect the City and grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance in connection with the cable television system. The amount of such insurance shall be not less than one million dollars (\$1,000,000.00) as to any one person, one million dollars (\$1,000,000.00) as to any one occurrence for injury or death to persons, and one million dollars (\$1,000,000.00) for damages to property, with, excess commercial general liability coverage of at least two million dollars (\$2,000,000.00).
- B. Worker's compensation insurance as provided by the laws of the State as amended.
- C. Automobile insurance with limits of not less than one million dollars/one million dollars (\$1,000,000.00/\$1,000,000.00) of public liability coverage and automobile property damage insurance with a limit of not less than one million dollars (\$1,000,000.00) covering all automotive equipment, with, excess commercial general liability coverage of at least two million dollars (\$2,000,000.00).
- D. All of said insurance coverage shall provide a thirty (30) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date of said material alteration or cancellation shall become effective.
- E. The grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the grantee, its assigns, employees, agents, invitees or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees.
2. Indemnification. The grantee agrees to indemnify, save and hold harmless, and defend the franchising authority, its officers, boards and employees, from and against any liability for damages or bodily injury (including accidental death), which arise out of the grantee's construction, operation, or maintenance of its cable system, provided that the City shall give the grantee written notice of its obligation to indemnify the City within ten (10) days of receipt of a claim or action pursuant to this section. If the City determines that it is necessary to employ separate counsel, the cost for such separate counsel shall be the responsibility of the City.

3. Bonds and Other Surety. Except as expressly provided herein, grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing its existence. The franchising authority acknowledges that the legal, financial, and technical qualifications of grantee are sufficient to afford compliance with the terms of the franchise and the enforcement thereof. Grantee and franchising authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for cable services. In order to minimize such costs, the franchising authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. The franchising authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than ten thousand dollars (\$10,000.00) conditioned upon the substantial performance of the material terms, covenants and conditions of the franchise. Initially, no bond or other surety will be required. In the event that one is required in the future, the franchising authority agrees to give grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change which would materially prohibit or impair its ability to comply with the terms of the franchise or afford compliance therewith.

#### **112.07 ENFORCEMENT AND TERMINATION OF FRANCHISE.**

1. Notice of Violation. In the event that the franchising authority believes that the grantee has not complied with the terms of the franchise, it shall notify grantee in writing of the exact nature of the alleged noncompliance.
2. Grantee's Right to Cure or Respond. Grantee shall have thirty (30) days from receipt of the notice described in subsection 1: (a) to respond to the franchising authority contesting the assertion of noncompliance or; (b) to cure such default or (c) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the franchising authority of the steps being taken and the projected date that they will be completed.
3. Public Hearing. In the event that grantee fails to respond to the notice described in subsection 1 pursuant to the procedure set forth in subsection 2, or in the event that the alleged default is not remedied within sixty (60) days after the grantee is notified of the alleged default pursuant to subsection 1, the franchising authority shall schedule a public meeting to investigate the default. Such public meeting shall be

held at the next regularly scheduled meeting of the franchising authority which is scheduled at a time which is no less than five (5) business days therefrom. The franchising authority shall notify the grantee of the time and place of such meeting and provide the grantee with an opportunity to be heard.

4. Enforcement. Subject to applicable Federal and State law, in the event the franchising authority, after such meeting, determines that grantee is in default of any provision of the franchise, the franchising authority may:

- A. Commence an action at law for monetary damages or seek other equitable relief.
- B. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.
- C. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked in accordance with the following:

The franchising authority shall give written notice to the grantee of its intent to revoke the franchise on the basis of a pattern of noncompliance by the grantee, including one or more instances of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The grantee shall have 90 days from such notice to object in writing and to state its reasons for such objection. In the event the franchising authority has not received a response satisfactory from the grantee, it may then seek termination of the franchise at a public meeting. The franchising authority shall cause to be served upon the grantee, at least 10 days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination.



At the designated meeting, the franchising authority shall give the grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the franchising authority “de novo” and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within 60 days of the issuance of the determination of the franchising authority.

The franchising authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the franchising authority’s rights under the franchise in lieu of revocation of the franchise.

The grantee shall not be relieved of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of the franchising authority to enforce prompt compliance.

5. Acts of God. The grantee shall not be held in default or noncompliance with the provisions of the franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

**112.08 REGULATION OF RATES.** The franchising authority may regulate rates for the provisions of basic cable and equipment as expressly permitted by Federal or State law.

**112.09 FILING REPORTS, MAPS, PETITIONS.**

1. Reports. Upon written request from the franchising authority, the grantee shall file with the City copies of FCC form 325 for the preceding calendar year.

2. Maps and Plats. On or before April 1 of each year, the grantee shall file with the City strand maps and plats showing the location and nature of all new property of the grantee within the City as of the end of the preceding calendar year.

3. Filing Communications with Regulatory Agencies. The grantee shall file with the City copies of all petitions, applications and communications submitted by the grantee to any regulatory agency having jurisdiction over the grantee.

4. Annual Reports and Communications. The grantee shall comply with all Federal and State notification requirements pertaining to notification of customers and the franchising authority. The grantee shall provide an annual summary report of modifications and

improvements and any changes affecting the cable system within the City to the franchising authority each year.

#### **112.10 MISCELLANEOUS PROVISIONS.**

1. Preemption. If the FCC, or any other Federal or State body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the franchising authority, the jurisdiction of the franchising authority shall cease and no longer exist.
2. Action of Franchising Authority. In any action by the franchising authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.
3. Effective Date. The effective date of this franchise is 11/06/2000 pursuant to the provisions of applicable law. This franchise shall expire on 11/06/2007 unless extended by mutual agreement of the parties.

*(Ch. 112 – Ord. 714 – Nov. 00 Supp.)*

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## CHAPTER 113

### CABLE TELEVISION FRANCHISE

#### 113.01 Grant of Franchise

#### 113.02 Assignment or Transfer

**113.01 GRANT OF FRANCHISE.** A nonexclusive right is hereby granted to Heart of Iowa Communications Cooperative (hereinafter referred to as the “Grantee”), its successors and assigns, to establish, construct, erect, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of twenty-five (25) years, in accordance with the laws and regulations of the City, including the nonexclusive right, privilege and authority:

1. to sell and supply audio and video communication service to persons within the City;
2. to use public property within the City as herein provided or as otherwise provided by this Code of Ordinances;
3. to engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

**113.02 ASSIGNMENT OR TRANSFER.** The Grantee shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the franchise to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heart of Iowa Communications Cooperative is a general partner without prior consent of the City.

#### EDITOR’S NOTE

Ordinance No. 766 adopting a cable television franchise for the City was passed and adopted on August 7, 2006.

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## CHAPTER 114

### HIGH POWER TRANSMISSION LINE FRANCHISE

114.01 Franchise Granted  
114.02 Eminent Domain  
114.03 Indemnification  
114.04 Relocation  
114.05 Modern System

114.06 Pruning  
114.07 Continuous Service  
114.08 Non-Exclusivity  
114.09 Term of Agreement  
114.10 Entire Agreement

**114.01 FRANCHISE GRANTED.** There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the “Company”), the right and franchise to acquire, construct, erect, maintain and operate in the City a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the “facilities”) along, under and upon the streets, avenues, alleys and public places in the City, also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City for the period of twenty-five (25) years,<sup>†</sup> also the right of eminent domain as provided in Section 364.2 of the Code of Iowa, as qualified by this chapter.

**114.02 EMINENT DOMAIN.** The City grants to the Company the power to condemn property for the purpose of providing electrical utilities to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting electricity in the public interest. The Company shall consult with the City in advance of the exercise of this right so as to minimize the impact of any taking.

**114.03 INDEMNIFICATION.** The facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the streets, alleys, 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 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 the transmission system.

**114.04 RELOCATION.** Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its facilities in, on, over or under

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<sup>†</sup> EDITOR’S NOTE: Ordinance No. 809 adopting a high power transmission line franchise for the City was passed and adopted on November 7, 2011.

any public street or alley in the City in such a 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 facilities for the primary benefit of a commercial or private 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 facilities. 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 alternate 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.

**114.05 MODERN SYSTEM.** The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

**114.06 PRUNING.** To promote public safety in proximity to its facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

**114.07 CONTINUOUS SERVICE.** Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so 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.

**114.08 NON-EXCLUSIVITY.** The franchise granted by this chapter shall not be exclusive.

**114.09 TERM OF AGREEMENT.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, as herein provided.



The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

**114.10 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. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this chapter is accepted by 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 that delay utility operations

*(Ch. 114 – Ord. 809 – Apr. 12 Supp.)*

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## CHAPTER 115

### CEMETERY

115.01 Establishment  
115.02 Rules – General Operation  
115.03 Rules – Burials  
115.04 Rules – Markers and Decorations  
115.05 Cemetery Charges

115.06 Sale of Lots; Perpetual Care  
115.07 Long Term Care of Lots  
115.08 Records  
115.09 Liability  
115.10 Platting

**115.01 ESTABLISHMENT.** The cemetery ground presently existing and known as the Eldora Cemetery, located on the following described property:

Beginning on the north line of Edgington Avenue, Eldora, Iowa, at the Center of Section Eight (8), Township Eighty-seven (87) North, Range Nineteen (19) West of the 5th P.M., Hardin County, Iowa; thence west 291.60 feet along the east-west centerline of said Section 8 and the north line of said Edgington Avenue to the east line of 6th Street; thence N00°04'W 630.60 feet along the east line of said 6th Street to the south line of 11<sup>th</sup> Avenue; thence S89°58'20"E 415.00 feet along the south line of said 11<sup>th</sup> Avenue and easterly extension thereof; thence S00°04'E 213.40 feet; thence east 1191.80 feet to the east line of the SW¼ of the NE¼ of said Section 8; thence S00°18'40"W 417.00 feet to the southeast corner of the SE¼ of the NE¼ of said Section 8 and to the north line of said Edgington Avenue; thence west 1312.50 feet along the north line of Edgington Avenue to the point of beginning;

*NOTE: The east-west centerline of Section 8-87-19 (the north line of Edgington Avenue) is assumed to bear due east and west for purpose of this description.*

and

Commencing at the southeast corner of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Eight (8), Township Eighty-seven (87) North, Range 19 West of the 5th P.M., Hardin County, Iowa, in the City of Eldora, Iowa, thence north 50 feet to the north line of Ninth (9th) Avenue to the point of beginning; thence north 556 feet, thence west 783.45 feet, thence south 556 feet, thence east 783.45 feet to the point of beginning and containing ten (10) acres, more or less;

is hereby established as a municipal cemetery of the City of Eldora, Iowa.

**115.02 RULES – GENERAL OPERATION.** The following rules shall govern general operations of the cemetery:

1. Persons within the cemetery shall at all times maintain decorum of speech and action, including avoidance of loud talking or other noise within earshot of graveside ceremonies if not part of the group participating in the ceremonies, and workers shall suspend their work when near such ceremonies.

2. No person shall drive any vehicle faster than fifteen (15) miles an hour or in a careless manner upon such roads unless authorized by this section.
3. Persons shall walk only on roads and walkways or footpaths except when absolutely necessary for maintenance of grave sites, inspection of plots, installation of markers or decoration of graves.
4. No person shall deface or otherwise damage any marker, headstone, monument, cemetery fence, or any other cemetery structure.
5. The hours when the cemetery may be closed shall be set by Council resolution.
6. No person except an authorized City employee shall cut, remove or carry away any flowers, trees, shrubs, plants or vines from any lot. However, the owner of a lot may remove and carry away any flowers, plants or vines that said owner has placed upon said lot. No person other than the owner of the lot or City employees in the performance of their duties shall remove, carry away or destroy any vases, flower pots, urns or other objects which have been placed upon any lot. Winter decorations shall be removed by April 1, and summer decorations shall be removed by September 1 of each year.
7. No person may consume liquors or alcoholic beverages of any kind on the cemetery grounds.
8. No person shall allow any dog or other animal belonging to or under the control of said person to run at large in the City cemetery, or any part thereof.
9. No persons other than law enforcement officers and persons engaged in military funerals or like ceremonies whose functions require the carrying of firearms may carry any firearm in or upon the City cemetery grounds.
10. All persons using the cemetery grounds shall deposit their rubbish and trash in the receptacles placed in the cemetery for that purpose.

**115.03 RULES – BURIALS.** The following rules shall apply to burials within the City cemetery. The Council, by resolution, may adopt further regulations not in conflict herewith with regard to burials.

1. Undertakers must possess a proper permit before any burial will be permitted.
2. Lot owners are forbidden to allow interments to be made in their lot for a remuneration.
3. All graves shall be dug by permitted grave digging service or workmen employed by the City, and no filling, sodding, boxing, mounding, or other work upon single graves or lot graves shall be done except by such employees of the City or permitted grave digging service.
4. No interment of any body other than a human being shall be permitted or made in the City cemetery, nor shall there be more than one body per grave. Any exception to this section must be made by the Council. Interment of mother and infant child will be permitted in one grave.
5. Arrangements for interments shall be made by the owner of the burial space, by a member or members of the family acting and authorized by law to act for the owner, or by an authorized undertaker, or other authorized agent of the owner.
6. Notice of interment must be given to the Sexton at least twenty-four (24) hours in advance of burial. A longer time may be required by resolution-adopted rule for winter burials. The Sexton must be present at all interments and have full charge of opening, closing and sodding of all graves.
7. The City shall in no manner be liable for any delay in the interment of a body where a protest to the interment has been made or where the rules and regulations of the cemetery have not been complied with. The City shall be under no duty to recognize any protest of interment unless it be in writing and filed with the Clerk. The City shall not be responsible for errors resulting from orders or instructions given by telephone and the Clerk and Cemetery Sexton may require such orders to be in writing before finalizing any action.
8. The City shall not be liable for the interment permit or for the identity of the body sought to be interred.
9. Disinterments shall be governed by the above rules 1 through 8.
10. Cemetery employees shall exercise reasonable care in making a removal but neither they nor the City shall assume any liability for damages to any casket or burial case or urn incurred in making the removal.
11. Burials must be made in concrete or equivalent vaults.

**115.04 RULES – MARKERS AND DECORATIONS.** The following rules shall apply to the erection of markers within the City cemetery. The Council, by resolution, may adopt further regulations not in conflict herewith with regard to markers.

1. Monuments and grave markers of every description shall have suitable foundations adequate to prevent tipping or sinking. Such foundations shall be of concrete installed by the monument company, and shall be at the owner's expense.
2. Foundations shall be of concrete, in area at least as large as the bottom base or first masonry course above ground of the structure to be erected, and of adequate depth. Said foundation shall meet the requirements as set forth in the cemetery rules.
3. Location and size of a marker shall be determined by the caretaker and it must be set and maintained so that the top of the marker is flush with the surrounding ground.
4. Commercial monuments shall be of bronze or granite of recognized grade, containing no discoloration, flaws or weak spots.
5. Slabs of any kind will not be permitted as coverings for graves. Surface vaults will not be permitted.
6. If any vault, tomb, mausoleum or like structure in which bodies are entombed in the cemetery shall fall into a state of dilapidation or decay, or shall be determined by the Council to be offensive or in any way injurious to the appearance of the cemetery, no adequate provisions having been made by the owner for repair and preservation of such structure, the City shall have the right to remove the said offensive or objectionable structure, maintaining such lot thereafter in good and similar condition as done with other lots in the cemetery.
7. No fences or enclosures around lots shall be permitted.
8. Lot owners shall not cultivate plants upon any lot. Owners of lots shall not change the grade of any lot or interfere in any way with the general plan of landscaping of a cemetery.
9. The caretaker or other authorized employees of the City may enter upon any lot and remove any shrub, plant, ornament or other object which is deemed detrimental to the cemetery or adjoining lots and for the purpose of making any improvements deemed to be advantageous to the cemetery grounds.
10. Lot owners and others are prohibited from placing on lots or graves any toys, cases, boxes, globes, shells, cans, jugs, bottles, bric-a-brac of every description, wooden benches, chairs, settees, headboards or

wooden articles of any kind. Any such articles found on the cemetery grounds may be removed.

**115.05 CEMETERY CHARGES.** The Council shall set, from time to time by resolution, charges for burial permits, grave digging, filling, protective tent rent, casket-lowering machine rent, concrete vaults, marker or monument bases, or other services provided by the City.

**115.06 SALE OF LOTS; PERPETUAL CARE.**

1. Purchasers of burial space in the City cemetery, whether by lots or parts thereof, shall be entitled, upon payment of the full purchase price, to a deed for the space purchased; said deed to be signed by the Mayor and countersigned by the Clerk, and specifying that said deed vests in the purchaser, the heirs, or the assigns of said purchaser, a right in fee simple to such lots, lot, or part thereof for the sole purpose of sepulcher alone, for human bodies only, subject to the rules and regulations and ordinances governing the cemetery as they exist at the time of interment, and that the City reserves the control of said lots, lot, or part of lot in the cemetery in order to properly maintain the cemetery. No deed shall be delivered until the purchaser has made final payment of the full fee for purchase plus the payment required for perpetual care.

2. An unoccupied lot will be presumed abandoned under the conditions set out in State law for reversions, and the City may sell such reverted lot, the proceeds from which shall be deposited in the Perpetual Care Fund to provide for the care of any occupied area of the reverted property or if there be no occupied portion, the proceeds from the sale portion may be invested, and the interest thereon be used wherever deemed useful for the care of cemetery.

3. The Council shall, from time to time as conditions require, set by resolution prices for the conveyance of a deed for lots, based on the size and location of each. The price shall include a portion for the perpetual care charge as set by said resolution. The proceeds from the sale portion shall be deposited in the Cemetery Operating Fund. The prices may be increased and the proportion for perpetual care changed when the Council finds that the needs of the cemetery require it.

4. The City reserves and shall have the right to correct any errors that may be made in making either interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the City or in

the sole discretion of the City, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the City reserves the right to remove and transfer such remains to such other property of equal value and similar location as far as reasonably possible may be substituted and conveyed in lieu thereof.

**115.07 LONG TERM CARE OF LOTS.** The purchase price shall include a portion to be called the perpetual care charge, to be set as a percentage of the full price, and the Clerk shall deposit such amount into a Cemetery Perpetual Care Fund. The Council, by resolution, shall also receive and expend all moneys and property donated or bequeathed for perpetual care. The assets of the Perpetual Care Fund shall be invested by the Clerk as permitted by State law for municipal cemetery investments. The City shall use the income from such investments in caring for the property of the donor or lot owner, or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of the cemetery lot. Nothing herein required shall be construed as destroying any vested right as to investments heretofore made prior to the date that the City acquired title to the cemetery or said Fund, but such investments may be continued until their maturity and then reinvested according to the provisions of this section.

**115.08 RECORDS.**

1. The City shall keep a lot record and each lot record shall consist of an individual page or card for each lot, arranged by blocks according to lot number. Each page or card shall contain a record of the name and complete address, as nearly as possible, of each lot owner, the lot and block number, the purchase receipt number, date of purchase and space for recording transfers. A diagram of the lot shall be drawn on the page, numbering and showing the location of each grave. A space is to be provided to record the name and grave number of each person buried in the lot.
2. An interment register shall be maintained by the City showing a complete record of interments. This shall be in book form, the columns of which shall provide space for recording each burial, the date of interment, the deceased's full name, place of death, name of the funeral director, lot and block where buried, size of grave, and location of grave in the lot measured in terms of feet from designated boundaries. (Example: "one foot from the north lot line, three feet from the west lot line.")
3. The City shall keep a burial record which shall contain a card for each body buried, arranged alphabetically by last name of deceased,



giving name, date of burial, and the lot and block number. This record will supplement the interment register and provide a starting point when only the name of the deceased is known.

**115.09 LIABILITY.** The City shall take reasonable precautions to protect plot owners and the property rights of plot owners within the cemetery from loss or damage, but it expressly shall not be liable for loss or damage beyond its control, and particularly from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, and unavoidable civil disorder, whether the damage be direct or consequential.

**115.10 PLATTING.**

1. It is hereby made the duty of the City Administrator to survey, plat, grade, fence, ornament and improve all of the cemetery grounds and the avenues leading thereto, from time to time, as in the opinion of the City Administrator and Council may be necessary and advisable. The City Administrator may use the Sexton and other labor and help to accomplish the aforementioned duties.
2. Before any new block of a City-owned cemetery is opened for sale of lots, the Council shall cause it to be platted and recorded in the office of the County Recorder. A copy of the plat map shall be deposited with the Sexton and one or more copies with the Clerk. The plat shall be so designed as to provide direct access to each lot from either a road or a walkway.

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## CHAPTER 116

### ELDORA CHILDREN'S CENTER

116.01 Definitions

116.02 Service Charges

116.03 Operation and Maintenance

116.04 Budget

116.05 Accounts and Auditing

116.06 Water and Sewer Services

**116.01 DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of the terms used in this chapter are as follows:

1. "Agreement" means the management and use lease agreement as reflected by the 28E agreement and lease between the City and Eldora-New Providence School District.
2. "Childcare Board" means the Eldora Community Childcare Board established by the 28E agreement by and between the City and the Eldora-New Providence Community School District.
3. "Customer" means a person or persons who utilize the services of the facilities.
4. "Day care" means the early childhood education facilities established by the 28E agreement and lease entered into by and between the City and the Eldora-New Providence Community School District, doing business as Eldora Children's Center.
5. "E-NP" means the Eldora-New Providence Community School District.
6. "Facilities" means all property comprising the early childhood education facilities, including all improvements, real and personal property, all appurtenances, contracts, leases, franchises and other intangibles.
7. "Service charge" means charges to the day care and day care facilities as authorized by the Council under this chapter and as may, from time to time, be amended.

**116.02 SERVICE CHARGES.**

1. There are hereby established service charges for the use of the day care and day care facilities in the City.
2. E-NP shall pay to the City monthly fees for the use of the facilities, all computed in accordance with the terms of the agreement previously entered into between the City and E-NP. It is expressly provided that the Council may, as appropriate, enter into modification of

that agreement without modifying this chapter provided the spirit of the original agreement and the purposes of this chapter are met by that subsequent modification.

3. It is hereby made the duty of E-NP to render bills for service and all other charges to customers in connection with the day care and day care facilities and to collect all monies therefrom pursuant to the agreement.

**116.03 OPERATION AND MAINTENANCE.** In accordance with the terms of the agreement, E-NP shall be responsible for the general operation and maintenance of the day care and day care facilities as set forth under the terms and conditions of the agreement.

**116.04 BUDGET.** The Childcare Board shall, prior to July 1 of each year, review and approve a budget for the operation of the day care and day care facilities for the next fiscal year in accordance with the terms of the agreement. The Childcare Board shall report to the E-NP Board of Directors and the Council on the proposed budget for the upcoming year and shall report on its operations for the preceding periods. The budgetary process as set forth in the agreement shall be followed.

**116.05 ACCOUNTS AND AUDITING.** E-NP shall maintain a proper system of accounts and proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the day care and day care facilities so that the budgeting requirements of the agreement may be followed. If necessary, service charge rates may be adjusted by the City to produce adequate income to retire the indebtedness of the City described in the agreement and associated resolutions; meet the operation, maintenance and replacement needs; and establish required reserves, all in accordance with the agreement entered into by and between the City and E-NP.

**116.06 WATER AND SEWER SERVICES.** The City shall provide water and sewer service to the day care and day care facilities for so long as the City is the owner at no charge to the day care and day care facilities pursuant to the agreement by and between the City and E-NP.

*(Ch. 116 – Ord. 771- June 07 Supp.)*

## CHAPTER 117

### FIBER OPTIC CABLE FRANCHISE

117.01 Grant of Franchise	117.09 Waiver of Damages
117.02 Location of Equipment and Fixtures	117.10 Indemnification
117.03 Relocation of Equipment and Fixtures	117.11 Tree Trimming
117.04 Discretion to Request Relocation	117.12 Assignment
117.05 Requirements of Construction	117.13 Non-Exclusive
117.06 Liability Insurance	117.14 Costs of Publication
117.07 Compliance with Applicable Laws	117.15 Condition of Effectiveness
117.08 Right of Inspection and Enforcement	

**117.01 GRANT OF FRANCHISE.** There is hereby granted to Unite Private Networks, LLC, its successors and assigns, hereinafter referred to as the "Company," the non-exclusive right and franchise to acquire, construct, reconstruct, erect, maintain and operate fiber optic cables along, under and upon the following identified streets, alleys and public places in the City of Eldora, Hardin County, Iowa, hereinafter referred to as the "City":

*10th Street from the center line of 12th Avenue to the center line of Edgington Avenue, Eldora, Hardin County, Iowa; AND*

*11th Street from the center line of Edgington Avenue to the center line of 14th Avenue, Eldora, Hardin County, Iowa; AND*

*14th Avenue from the center line of 11th Street to the center line of 12th Street, Eldora, Hardin County, Iowa; AND*

*Lots 1 and 2, Block 10 and the East and West vacated alley lying south of Lots 1 and 2 of said Block 10, Eldora, Hardin County, Iowa.*

To the extent authorized by law and any City agreement with the Iowa Department of Transportation and/or the State of Iowa, the franchise shall also be authorized as to the following street:

*Edgington Avenue from the center line of 10th Street to the center line of 11th Street.*

This franchise shall continue for a period of 25 years from the date of the grant of the franchise by the City. <sup>†</sup>

**117.02 LOCATION OF EQUIPMENT AND FIXTURES.** Any above ground installations shall be mounted on existing poles through private agreement(s) with existing franchise holders. The Company will not be allowed to erect any additional poles on any City Right-of-Way. All underground cables must be installed using directional boring technology

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<sup>†</sup> EDITOR'S NOTE: Ordinance No. 817 adopting a fiber optic cable franchise for the City was passed and adopted on September 18, 2012.

except where open excavations are necessary for beginning or terminating a directional bore. Cables shall be placed so as not to interfere with any existing utilities or facilities owned by the City or any other company legally authorized to own utilities or facilities located within any City Right-of-Way.

**117.03 RELOCATION OF EQUIPMENT AND FIXTURES.** The Company shall relocate cables within one hundred twenty (120) days of receiving a written request from the City to do so. Any required cable relocation shall be completed at the sole expense of the Company. The City shall not unreasonably require the Company to relocate its cables.

**117.04 DISCRETION TO REQUEST RELOCATION.** If the City, in its sole discretion, determines that there is insufficient space available in any City Right-of-Way to accommodate an installation or relocation of the Company's cables, the Company shall reroute its cables via City Right-of-Way where sufficient space is available.

**117.05 REQUIREMENTS OF CONSTRUCTION.** All backfilling and surface restoration following any necessary open excavations shall be accomplished by the Company in accordance with City engineering department requirements in effect at the time of the excavation. The Company shall, at its expense, replace and restore all Rights-of-Way to a condition substantially similar to the condition of the Right-of-Way existing immediately prior to the commencement of work. In the case of any disturbance of pavement, sidewalks, driveways, lawns, or any other surface within the Right-of-Way, the Company shall, at its expense, promptly replace, restore, and maintain the disturbed areas to the same condition said areas were in prior to the disturbance.

**117.06 LIABILITY INSURANCE.** Before the commencement of operations, the Company shall procure and maintain insurance in such amounts and kinds of coverage as may be required by the City Administrator or designee. The Company shall maintain such insurance with insurance companies authorized to do business in the State of Iowa. All policies shall name the City, its employees, agents, and officers as additional insureds. Any such policy shall provide that it may not be cancelled or the amount of coverage altered without thirty (30) days written notice to the City Clerk. Similar coverage shall be provided for any contractors or subcontractors of the Company.

**117.07 COMPLIANCE WITH APPLICABLE LAWS.** All work shall conform to all applicable safety, construction, and technical specifications and codes and standards as well as all Federal, State, County, and City construction requirements and the Company shall participate in and use Iowa One Call in advance of the commencement of work.

**117.08 RIGHT OF INSPECTION AND ENFORCEMENT.** The City shall have the right to inspect or correct all construction and installation work in order to ensure compliance with the terms of this franchise or any other applicable law. The Company shall not be relieved of any of its obligations by reason of City's failure to enforce prompt compliance.

**117.09 WAIVER OF DAMAGES.** The Company shall not be entitled to damages from the City resulting from the closing, vacation, or relocation of any streets, alleys, or right-of-way or any other City action authorized or otherwise contemplated by this chapter.

**117.10 INDEMNIFICATION.** The Company agrees to indemnify, protect, and hold harmless the City from and against any and all liability claims, losses, costs of investigation and defense, and damage to property or bodily injury or death to any person, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance, or operation of the Company's fiber optic system caused by any negligent act or negligent failure to act on the part of the Company, its agents, contractors, subcontractors, officers, or employees.

**117.11 TREE TRIMMING.** Permission is hereby granted to the Company to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with the Company's wires and cables. All such trimming will be done under the supervision and direction of any City official to whom such duties have been or may be delegated.

**117.12 ASSIGNMENT.** This franchise and all rights hereunder may be assigned by the Company, as well as all succeeding parties of the Company, at their option, and the successors and/or assigns shall succeed to all the rights, duties, and liabilities of the Company hereunder. The Company shall give the City written notice of any assignment of this franchise and the rights granted hereunder no less than sixty (60) days prior to the effective date of any such assignment.

**117.13 NON-EXCLUSIVE.** The rights and franchise granted by this chapter shall not be exclusive.

**117.14 COSTS OF PUBLICATION.** The expense of publication to make this chapter a valid addition to the Code of Ordinances shall be borne by the Company.

**117.15 CONDITION OF EFFECTIVENESS.** The rights and franchise granted herein shall be conditioned upon acceptance by the Company in

writing. The acceptance shall be filed with the City Clerk within ninety (90) days from the adoption of this chapter by the City Council.

*(Ch. 117 – Ord. 817 – Apr. 13 Supp.)*

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## 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 Class E Licensees

**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 & 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 & 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, 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 or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32 [2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club'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 liquor, wine or beer.

*(Code of Iowa, Sec. 123.49 [1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

*(Code of Iowa, Sec. 123.49 [2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49 [2f])*

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine 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 or permit.

*(Code of Iowa, Sec. 123.49 [2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

*(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 which has been reused or adulterated.

*(Code of Iowa, Sec. 123.49 [2e])*

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49 [2g])*

**120.06 CLASS E LICENSEES.** The following prohibitions apply only to Class E licensees:

1. Limited Access for Minors. Minors shall not enter, or be permitted to enter, a Class E liquor control premises unless accompanied by a parent or adult relative. However, minors shall be permitted to enter the balance of a Class E liquor control premises if the liquor is displayed in a separate and segregated area. Minors shall not enter, or be permitted to enter, a separate and segregated Class E liquor control area unless accompanied by a parent or adult relative. A “separate or segregated area,” for purposes of this section, shall be an area of the retail space designated for Class E liquor, which has limited access and is separated by a physical barrier from the remaining retail space.

*(Ord. 722 – Jul. 01 Supp.)*

2. Employment of Minors. If the licensee employs minors:
  - A. Back stock shall be locked up at all times;
  - B. Liquor displayed shall be in a separate section; and
  - C. If the licensee maintains store operating hours between two o'clock (2:00) a.m. and six o'clock (6:00) a.m., the liquor area shall be locked from 2:00 a.m. to 6:00 a.m. so that it is inaccessible.

## CHAPTER 121

### CIGARETTE 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. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
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, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.
6. “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.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; 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.

**121.02 PERMIT REQUIRED.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

*(Code of Iowa, Sec. 453A.13)*

**121.03 APPLICATION.** A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) 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)*

**121.04 FEES.** The fee for a retail cigarette permit shall be as follows:

*(Code of Iowa, Sec. 453A.13)*

<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.

**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 of the Code of Iowa.

*(Code of Iowa, 453A.13)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under twenty-one (21) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violated the provisions of this section, the Council shall after written notice and hearing, and in addition to the standard penalty, assess the following:

1. For a first violation, the violator shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the violator's permit shall be suspended for a period of thirty (30) days.
3. For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.
4. For a fourth violation within a period of five (5) years, the violator's permit shall be revoked.

The Clerk shall give ten (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.

*(Section 121.07 – Ord. 861 – May 20 Supp.)*

**121.08 SELF-SERVICE SALES PROHIBITED.** Beginning January 1, 1999, 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 cigarettes or tobacco products, in a quantity of less than a carton, 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 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, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

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

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## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**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 which 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 five dollars (\$5.00) 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 Twenty-five Dollars (\$25.00) per year.
2. Peddlers or transient merchants license fees will be set by resolution.

*(Ord. 843 – Jun. 16 Supp.)*

**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 eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under 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.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such 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.

**122.13 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.

**122.14 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.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. 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.

**122.16 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.

**122.17 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 five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**122.18 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 Eldora-New Providence 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.

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.**

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A 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 122.15 of this chapter.

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## 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 Issued

123.07 Public Safety  
123.08 Time Limit  
123.09 Removal by City  
123.10 Protect Pavement  
123.11 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. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made at least five (5) days prior to the proposed moving, 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 Police Chief, Director of Utilities, 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 five thousand dollars (\$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 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

**123.06 PERMIT ISSUED.** Upon approval of the application and filing of bond and insurance certificate, the Clerk shall issue a permit. A separate permit shall be required for each house, building or similar structure to be moved.

**123.07 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 flagmen 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.

**123.08 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 twelve (12) hours without having first secured the written approval of the City.

**123.09 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.08 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.

**123.10 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 (1) inch in width for each one thousand (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.

**123.11 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.

## CHAPTER 124

### JUNK DEALERS

124.01 Definition

124.02 License Required; Fee

124.03 Minors

124.04 Licensed Premises Requirements

124.05 Examination of Premises

124.06 Destroy Property

124.07 Concealing Property

124.08 Prohibited Location

**124.01 DEFINITION.** The term “junk dealer” as used in this chapter includes any person who keeps, maintains, operates or uses any building, lot, parcel of ground or other place, for assembling, collecting, dumping, wrecking, storing or keeping any old iron, old automobiles, machinery and refuse or waste material for the purpose of storing, salvage or sale of the same.

**124.02 LICENSE REQUIRED; FEE.** It is unlawful to engage in the vocation or occupation of junk dealer without first securing a license from the Council. The license fee for a junk dealer is five dollars (\$5.00) per year, which license shall expire one year after the date of issuance.

**124.03 MINORS.** It is unlawful for any junk dealer to purchase or receive any property from minors without the written consent of their parents or guardians.

**124.04 LICENSED PREMISES REQUIREMENTS.**

1. Fence. It is unlawful for any junk dealer to keep, maintain, operate or use any lot, parcel of ground or other place for the conduct of a junk business unless all junk is kept inside of a building or within the confines of a fence not less than ten (10) feet high and of such a solid structure as to hide all junk from view from the outside.
2. Deposit of Junk. It is unlawful for any junk dealer to deposit any junk on or within ten (10) feet of any street, alley or public space or within ten (10) feet of adjoining private property without the consent of the owner thereof.

**124.05 EXAMINATION OF PREMISES.** Any peace officer shall have the power to examine the premises of any junk dealer, for the purpose of discovering stolen property, and it is unlawful for any junk dealer to refuse to allow any peace officer to make such an examination.

**124.06 DESTROY PROPERTY.** It is unlawful for any junk dealer to destroy or melt any article or sell or otherwise dispose of it until forty-eight (48)

hours after its purchase, without obtaining a written permit from the Police Chief to do so.

**124.07 CONCEALING PROPERTY.** It is unlawful for any junk dealer to conceal or secrete any article purchased or received by said junk dealer, for the purpose of preventing identification thereof by any peace officer or by any person claiming ownership of some.

**124.08 PROHIBITED LOCATION.** It is unlawful for any junk dealer to keep, maintain, operate or use any building, lot, parcel of ground or other place, for the conduct of a junk business, at any location until the junk dealer shall have obtained the consent of seventy-five percent (75%) of the property owners within three hundred (300) feet of the proposed location.



## CHAPTER 125

### PAWNBROKERS

125.01 Definition	125.07 Delay in Redemption or Sale
125.02 License Required	125.08 Notice by Police Requiring Retention of Articles
125.03 Bond	125.09 Time Within Which Pledged Article May be Redeemed
125.04 Records Required	125.10 Trafficking with Minor or Intoxicated Persons
125.05 Contents of Pawn Ticket	
125.06 Daily Report to Police; Exceptions	

**125.01 DEFINITION.** Any person who loans money on deposit or pledge of personal property, or other valuable thing, or deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by a security interest on personal property, taking possession of the property or any part thereof so secured, is hereby defined and declared a pawnbroker.

**125.02 LICENSE REQUIRED.** Any person who engages in the business of a pawnbroker, before engaging in such business, shall obtain from the Mayor a license as herein provided.

**125.03 BOND.** Before any person shall receive a license for doing business as a pawnbroker, said person shall file with the Clerk a bond, with surety or sureties to be approved by the Clerk, in the sum of two thousand dollars (\$2,000.00). Such bond shall be conditioned that the principal named therein shall observe the ordinances of the City in relation to pawnbrokers and conduct said person's business in conformity thereto, and that said person will account for and deliver to any person legally entitled thereto, any goods, wares or merchandise, article or thing, which may have come into said person's hands through such business or, in lieu thereof, will pay in money to such person or persons the reasonable value thereof.

**125.04 RECORDS REQUIRED.** Every person who engages in the business of a pawnbroker shall keep a book in which shall be clearly written in ink, at the time of each loan or purchase, an accurate account or description, in the English language, of the goods, articles or other things pawned, pledged or purchased, the amount of money loaned or paid therefor, the time of the receipt of the same, and the name, address and description of the person pawning, pledging or selling the same. Said book, as well as the articles pawned or purchased, shall at all reasonable times be open to the inspection of the Mayor, or any member of the police force.

**125.05 CONTENTS OF PAWN TICKET.** Every such pawnbroker purchasing or receiving on deposit for a loan any article or personal property, shall give to the person selling or depositing such article or personal property a plain written or printed ticket or receipt for the article or property so sold or deposited, showing the terms of such sale or loan and a copy of the entries in said pawnbroker's book relating to such sale or loan.

**125.06 DAILY REPORT TO POLICE; EXCEPTIONS.** It is the duty of such pawnbroker to make out and deliver to the Police Chief, every day before the hour of twelve o'clock (12:00) noon, a legible and correct copy from the record book of all personal property, or other valuable things received or deposited or purchased during the preceding day, together with the time when received or purchased, the names and a general description of the person or persons by whom left and pledged, or from whom the same was purchased; provided, however, no person shall be required to furnish such description of any property purchased from merchants, manufacturers or wholesale dealers having an established place of business.

**125.07 DELAY IN REDEMPTION OR SALE.** No personal property received on deposit by any such pawnbroker shall be permitted to be redeemed from the place of business of such pawnbroker for a period of forty eight (48) hours next after the delivery to the Police Chief of the copy and a statement relating thereto, and no personal property purchased by such pawnbroker shall be sold or disposed of in any way within a period of five (5) days next after the delivery to the Police Chief of the record book and a statement relating thereto.

**125.08 NOTICE BY POLICE REQUIRING RETENTION OF ARTICLES.** The Police Chief or any member of the Police Department may, for good and sufficient cause, require any pawnbroker by notice duly served, to retain in said pawnbroker's possession any article purchased by said pawnbroker or received on pledge and not to sell or permit the redemption of such article for a reasonable time stated in the notice or until further notice.

**125.09 TIME WITHIN WHICH PLEDGED ARTICLE MAY BE REDEEMED.** Any person pledging an article shall have thirty (30) days to redeem the same before the pledge becomes forfeitable.

**125.10 TRAFFICKING WITH MINOR OR INTOXICATED PERSONS.** No pawnbroker shall purchase any goods, wares, merchandise, article or thing from a minor or intoxicated person; provided, however, pawnbrokers may purchase goods, wares, merchandise, articles or things from minors, providing that the minor has a signed document from his or her parent or guardian consenting to said transaction.



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## CHAPTER 126

### EXTERIOR PLUMBERS

126.01 Plumbing Defined  
126.02 Application for Exterior Plumber's License  
126.03 License Fee  
126.04 Issuance of License  
126.05 License Effectiveness and Renewal

126.06 Revocation of License  
126.07 Qualifications for License  
126.08 Exemptions from Licensing Requirements  
126.09 Interior Plumbing and State Law  
126.10 Violation

**126.01 PLUMBING DEFINED.** For purposes of this chapter, “plumbing” means all potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains and building sewers, storm sewers, and storm drains, including their respective joints and connections, devices, receptors, and appurtenances within the property lines of the premises, and including the connection to sanitary sewer, storm sewer, and domestic water mains. “Plumbing” includes potable water piping, potable water treating or using equipment, water heaters and vents.

**126.02 APPLICATION FOR EXTERIOR PLUMBER'S LICENSE.** Any person desiring to engage in the business of plumbing which involves the laying of pipe that originates or connects to pipe in the public right-of-way or property that is intended to become public right-of-way, even if such pipe extends under property and up to a building on property, shall file an application for a license in the office of the City Administrator, giving the name of the applicant and the name of all other persons associated with said applicant in the plumbing business, if any, whether as a firm or corporation, and designating said applicant's place of business and stating a willingness to be governed in all respects by the rules and regulations and provisions of this Code of Ordinances and all other ordinances and rules relating to said business now in effect or hereafter to be adopted by the Council. For purposes of this section, “property” means all real estate within corporate limits that is not public right-of-way.

**126.03 LICENSE FEE.** Upon presentation of the application, the applicant shall pay a fee of Fifty Dollars (\$50.00). Any future increase shall be by resolution of the Council.  
*(Ord. 843 – Jun. 16 Supp.)*

**126.04 ISSUANCE OF LICENSE.** The Council may issue the applicant a plumbing license only after the applicant meets the qualifications for the license and the applicant has executed a bond to the City, to be approved by Council, in the sum of five thousand dollars (\$5,000.00), on the condition that such license will indemnify and save harmless the City from all accidents or indemnities caused by any negligence whether in the execution or protection of the licensee's work or from any unfaithful or inadequate work done under such

license. If the Council does not approve the license, the bond shall be discharged.

**126.05 LICENSE EFFECTIVENESS AND RENEWAL.** A license issued under this chapter shall be valid until the 15th day of February of the calendar year after the year of issuance unless said license is revoked before that date. On the first business day in January of each year, every plumber holding a valid license shall be sent a reminder to apply for a plumber's license renewal for the new year.

**126.06 REVOCATION OF LICENSE.**

1. A license issued under this chapter may be revoked by the Director of Utilities when the Director finds that the holder of the license has:

A. Committed an act of negligence or otherwise performed in an unworkmanlike manner while performing plumbing work requiring a license under this chapter; or

B. Committed an act in violation of applicable local, State or Federal law or regulations while performing plumbing work requiring a license under this chapter; or

C. Committed an act of fraud against the City regarding any matter involving any license issued or which may be issued under this chapter; or

D. Committed an act of fraud against a property owner in the course of providing to the property owner those plumbing services which require the issuance of a license under this chapter; or

E. Any other failure of the holder of the license to comply with the requirements of this chapter.

2. When determining whether or not to revoke a license, the Director may take into account the isolated nature of any act described above, an effort by the license holder to remedy any act described above, or any good-faith dispute regarding a claim for fraud, negligence, or deficient workmanship.

3. A revocation of a license by the Director shall be issued in writing and mailed to the license holder's place of business as shown on the application. The revocation shall be effective immediately upon the date of mailing. A person whose license has been revoked may appeal to the Council for review. Any application for review of revocation must be in writing and be reviewed by the City Clerk no later than ten (10) calendar

days after the effective date of the revocation. The Council shall give high deference to any findings of fact by the Director at a review of revocation and may thereafter take such action as may be appropriate, including confirmation of revocation or reinstatement of the license.

**126.07 QUALIFICATIONS FOR LICENSE.** Any person desiring to engage in the business of plumbing which requires a license under this chapter must first be able to show that said person has the experience necessary to do the plumbing work in a skilled and professional manner by giving the necessary references to establish such qualifications. The Director of Utilities shall give his or her recommendation to the Council as to the qualifications of the applicant.

**126.08 EXEMPTIONS FROM LICENSING REQUIREMENTS.** A person who engages in the business of plumbing shall be exempt from the licensing requirements of this chapter only if that person does not engage in the business of plumbing which involves the laying of pipe that originates or connects to pipe in the public right-of-way or property that is intended to become public right-of-way as described in Section 126.02 above.

**126.09 INTERIOR PLUMBING AND STATE LAW.** The issuance of a license under this chapter does not authorize a person to make interior pipe connections or otherwise engage in any business of plumbing which requires the issuance of a license from the State of Iowa.

**126.10 VIOLATION.** It shall be a violation of this Code of Ordinances, punishable by a municipal infraction, for a person to engage in the business of plumbing which involves the laying of pipe that originates or connects to pipe in the public right-of-way or property that is intended to become public right-of-way, even if such pipe extends under property and up to a building on property, without a valid license issued pursuant to this chapter. For purposes of this section, "property" means all real estate within corporate limits that is not public right-of-way.

*(Ch. 126 – Ord. 794 – Jan. 10 Supp.)*

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 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. It is also unlawful to cause oil, grease or anti-freeze to contaminate the street surface.

*(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 therefor. 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.

No permit is required to begin work in cases of extreme emergency, such as breakage of water, gas or sewer lines or electric cables. However, a permit must be obtained on the first working day following the emergency excavation.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street. Street closures must be approved by the Director of Utilities or City Administrator. Notice of closure must be made forty-eight (48) hours prior to closure. The only exception would be that of extreme emergency, in which case immediate notice must be made to the Director of Utilities or City Administrator. If they cannot be contacted, then notice to the Police Department must be made.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting the *Manual of Uniform Traffic Control Devices* 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. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of two thousand dollars (\$2,000.00) 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 administration of this section. In lieu of a surety bond, a cash deposit of two thousand dollars (\$2,000.00) may be filed with the City.
5. 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.
6. 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, in accordance with City specifications, at the expense of the permit holder/property owner. The curb and gutter or street surface may be replaced by the Public Works Department and billed to the property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
8. Completion by the City. Should any excavation in any street, street parking, utility easement or alley be discontinued or left open and unfinished for a period of twenty-four (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 therefor to the permit holder/property owner.

9. 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.

10. Notification. At least forty-eight (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.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

12. Expiration of Permit. A permit granted under this section shall lapse after ninety (90) days. An applicant must reapply for a permit if the excavation and required repairs are not completed within the 90-day time period.

13. Appeal After Denial of Permit. An applicant who has been denied a permit or who objects to any conditions placed upon a permit may file a written notice of appeal with the Clerk. The Clerk shall schedule the appeal to be heard at the next Council meeting. The Council may affirm, reverse or modify any decision or condition regarding the permit.

14. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that 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 timely mowing, trimming trees and shrubs and picking up litter.

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

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** 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 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])*

**135.13 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.

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## CHAPTER 136

### SIDEWALK REGULATIONS

136.01 Purpose	136.11 Failure to Repair or Barricade
136.02 Definitions	136.12 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.13 Encroaching Steps
136.04 Liability of Abutting Landowner	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 Permits and Inspections	136.17 Debris on Sidewalks
136.08 Sidewalk Inspection and Repair	136.18 Merchandise Display
136.09 Sidewalk Standards	136.19 Sales Stands
136.10 Barricades and Warning Lights	136.20 Removal of Sidewalk

**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. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “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.
5. “Portland cement” means any type of cement except bituminous cement, testing 3500 psi.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “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.
8. “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.** It is the responsibility of the abutting property owners to remove snow and/or ice accumulations from sidewalks within forty-eight (48) hours of the accumulation. The minimum width of cleared sidewalks shall be eighteen (18) inches. If a property owner does not remove snow and/or ice accumulations within the forty-eight hour time period, the City shall send by ordinary mail a notice that the property owner has forty-eight (48) hours from the date of the notice to remove such accumulations. The notice shall also instruct the property that said notice constitutes the property owner's notice for the balance of the winter and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given. If a property owner fails to remove the snow and/or ice accumulations within the time period set forth in the notice, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

**136.04 LIABILITY OF ABUTTING LANDOWNER.** The landowner is responsible for the sidewalk abutting his or her property, notwithstanding whether or not the City has served notice for repair, replacement or reconstruction and notwithstanding whether or not the City has conducted a sidewalk inspection. The abutting landowner shall keep the sidewalk in a reasonably good state of repair. If damages are to be awarded under this section against the abutting property owner, the claimant has the burden of proving the amount of the damages. To authorize recovery of more than a nominal amount, facts must exist and be shown by the evidence which afford a reasonable basis for measuring the amount of the claimant's actual damages, and the amount of actual damages shall not be determined by speculation, conjecture, or surmise. All legal or equitable defenses are available to the abutting property owner in an action brought pursuant to this section.

**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 PERMITS AND INSPECTIONS.** Before any new sidewalk improvement the person desiring to improve the same shall obtain a permit and after the sidewalk forms have been prepared and before the cement is poured, authorized City personnel shall inspect the same to ascertain that the construction is in accordance with the provisions of this chapter. Before any permit is issued, the person who makes the application shall pay a fee set by Council resolution. The Clerk may give the applicant a written receipt showing the sum received and the date if requested.

*(Ord. 827 – Oct. 14 Supp.)*

**136.08 SIDEWALK INSPECTION AND REPAIR.** The Council shall by resolution establish a sidewalk inspection and repair policy for the City. Said sidewalk inspection and repair policy shall provide for the inspection of sidewalks within the City limits, and provide for guidelines and standards for repair. Said sidewalk inspection and repair policy shall be available at City Hall for inspection by the public.

**136.09 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. A two (2) inch sub-base of compact, clean, coarse gravel or sand shall be laid.  
*(Ord. 827 – Oct. 14 Supp.)*
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 (4) feet wide and four (4) inches thick. Thickness for those sidewalks crossed by a driveway shall be six (6) inches or may be reduced by one (1) inch of thickness with proper rebar or reinforcement. Each section shall be no more than four (4) feet in length. Where applicable the City may order a five (5) foot by five (5) section installed for ADA requirements.  
*(Ord. 827 – Oct. 14 Supp.)*
  - B. Business District sidewalks shall be at least six (6) feet wide or the width of the adjoining sidewalk, whichever is the greater, and shall have the same thickness as in residential areas and each section shall be

no more than seven (7) feet in length. For purposes of this chapter, the following streets are designated as Business District streets where in sidewalks meeting these specifications shall be constructed:

- (1) Edgington Avenue from one-half (½) block west of Eleventh Street to Fourteenth Street.
- (2) Fourteenth Avenue from Twelfth Street to Thirteenth Street.
- (3) Twelfth Street from the alley one-half (½) block south of Fourteenth Avenue north to Twelfth Avenue, except the Courthouse Square.
- (4) Washington Street from one-half (½) block south of Fourteenth Avenue to Twelfth Avenue, except on the west side, which shall extend north an additional one-half (½) block.

6. Elevations. All sidewalks shall be elevated one-fourth (¼) inch per foot from the height of the adjoining curb to the sidewalk.

7. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

8. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.

9. 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.

*(Ord. 799 – Aug. 10 Supp.)*

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

10. Any application for a permit which requests a variance of the specifications found herein shall be directed to the Director of Utilities. The Director of Utilities may grant a permit which is at variance with the specifications found herein if it is found under the specific circumstances that the variance is appropriate and that adequate provision has been made for drainage and for safety. Applicants adversely affected by a denial of a variance may appeal the denial by filing a written notice of

appeal with the Clerk within five days. The Council shall review the appeal at the next regularly scheduled meeting and may either affirm or reverse the denial of the variance.

**136.10 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.

**136.11 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.

**136.12 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.

**136.13 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 (6) feet of any sidewalk.

**136.15 FIRES OR FUELS 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 two (2) 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.

**136.20 REMOVAL OF SIDEWALK.** Prior to removal of sidewalk, the abutting property owner shall make application with the City. A sidewalk may only be removed (except for purpose of replacement and reconstruction) with Council approval. Violations of this section shall be subject to the standard penalty, as well as an order from the Council for the abutting property owner to replace the sidewalk. Upon the property owner's failure to replace the sidewalk, the City may replace said sidewalk and assess the costs of the same as provided in this chapter.

## CHAPTER 137

### VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

**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 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 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.

**137.04 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.

**137.05 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)*

(Code of Iowa, Sec. 364.7[3])

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.

[illegible]

## STREET GRADES

### 138.02 Record Maintained

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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## 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.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**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 Eldora, 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.

## CHAPTER 140

### CURB CUTS AND DRIVEWAYS

140.01 Definitions

140.02 Permit

140.03 Permit Fee

140.04 Driveway Requirements

140.05 Sidewalks

140.06 Protection of Work

140.07 Inspection and Approval

140.08 Revocation of Permit

**140.01 DEFINITIONS.** For use within this chapter the following terms are defined:

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
2. “Paving” means Portland cement concrete, or asphalt, with the necessary base. “Paving” does not include surfacing with oil, gravel, oil and gravel, or chloride, unless as otherwise provided herein.

**140.02 PERMIT.** Before any person shall construct or repair a driveway, said person shall obtain a written permit from the City Administrator. Written application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the proposed plan of construction or repair, which shall include the depth, width and type of surfacing material to be used. No other plan shall be followed except by written permission of the City Administrator, who may allow amendments to the application or permit that do not conflict with this chapter. The City Administrator shall issue the permit, bearing approval and the date of issuance, if the proposed plan meets all of the requirements of this chapter, if the fee required under this chapter has been paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage or create any defect. Each permit shall expire six (6) months from the date of issuance.

**140.03 PERMIT FEE.** Before any permit is issued, the person who makes the application shall pay Twenty-five Dollars (\$25.00) to the Clerk. The Clerk shall give the applicant a written receipt showing the sum received on the date. Any future increase shall be by resolution of the council.

*(Ord. 843 – Jun. 16 Supp.)*

**140.04 DRIVEWAY REQUIREMENTS.**

1. Specifications. All driveways shall be of paving of a depth of not less than five and one-half (5½) inches of concrete or three and one-half (3½) inches of asphalt and shall be at least ten (10) feet in width. The driveway may be placed directly on compact and well-drained soil. Where soil is not well drained, a six-inch (6") sub-base of compact, clean, coarse gravel or sand shall be laid. The City shall determine the slope of the driveway toward the roadway. The maximum driveway width at the curb line shall be fifty-five (55) feet. The longitudinal grade from the property line shall be at a slope of one-quarter (¼) inch per foot to the top of the curb, and shall be not less than a two-inch (2") grade from property line to top of the curb. A three-quarter-inch (¾") expansion joint shall be placed at the outside edge of the sidewalk. If the existing curb and gutter are separate from the paving, it shall be removed and reconstructed as a part of the approach. If there is a construction joint in the existing curb and gutter nearer than twenty-four (24) inches to the approach, this section shall also be removed and reconstructed as part of the approach. In addition to the foregoing, driveways will be allowed which are the equivalent construction, in both materials and method of construction, to the street to which the constructed driveway will abut. In the event the abutting street is reconstructed, upgrading the materials to either Portland cement or asphalt, then and in that event, a driveway of lesser quality which was permitted by the preceding sentence shall be reconstructed using materials in accordance with Section 140.01 herein and meeting the requirements of this section.

2. Enforcement. A property owner required to reconstruct a driveway under this section shall have six (6) months from the time of the improvement of the abutting street to reconstruct said owner's driveway. If the work is not completed in a timely manner, the City shall have the right to reconstruct the driveway and the Council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

**140.05 SIDEWALKS.** The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk. The sidewalk shall be poured separately from the driveway and shall be six-inch (6") Portland cement across the driveway.

**140.06 PROTECTION OF WORK.** The person undertaking and performing the work incident to construction or emplacement shall at said person's own expense erect suitable barriers around said work from the time of

its commencement until completion, in order to prevent accidents, and shall place and maintain during the night sufficient lights for this purpose on or near the work. Said person shall at all times until its completion and final acceptance, protect such work, apparatus and material from accident or other damage and shall make good any damages thus occurring, at such person's own expense.

**140.07 INSPECTION AND APPROVAL.** The driveway must be inspected and approved in writing by the City within thirty (30) days after completion of the work. The City shall keep a record of such approvals in the City Hall. If the work is not approved it must be corrected immediately so that it will meet with City approval. If the work has been done improperly, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

**140.08 REVOCATION OF PERMIT.** The City may at any time revoke the permit for any violation of this chapter and may require that the work be stopped.

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## CHAPTER 144

### PROPERTY MAINTENANCE CODE

144.01 Title	144.08 Building Maintenance
144.02 Purpose	144.09 Refuse
144.03 Interpretation	144.10 Re-Siding and Reconstruction
144.04 Abrogation and Greater Restrictions	144.11 Exception for Farms and Existing Estates
144.05 Definitions	144.12 Violations
144.06 General Maintenance Standards	144.13 Appeals to the Council
144.07 Maintenance of Premises	

**144.01 TITLE.** This chapter may be referred to as the Property Maintenance Code and is referred to herein as “this Code.”

**144.02 PURPOSE.** The purpose of this Code is to protect the public health, safety, welfare, esthetics and property values, by establishing minimum standards to maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers; and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation for premises which do not comply with this Code.

**144.03 INTERPRETATION.** The provisions of this Code shall be interpreted and applied as minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the *Code of Iowa*. Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, or to grant powers to the City that are otherwise reserved by and for Federal and State Government.

**144.04 ABROGATION AND GREATER RESTRICTIONS.** It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply, the higher standard shall prevail.

**144.05 DEFINITIONS.** Words used in this Code shall have the same meaning as those defined by the Zoning Ordinance unless otherwise by this Code.

1. “Abandoned building” means any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one (1) year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has Building Code violations.

2. "Council" means the City Council of Eldora, Iowa.
3. "Deterioration" means a state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.
4. "Enforcement officer" means the Code Enforcement Officer.
5. "Exposed to public view" refers to any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.
6. "Exterior" means yards and other open outdoor spaces on premises, and the external surfaces of any structure.
7. "Extermination" means the control and elimination of insects, rodents and vermin.
8. "Farm" means a tract of land having an area of two or more acres devoted by raising of crops or domestic livestock.
9. "Infestation" means the presence of insects, rodents, vermin, or other pests on the premises to the extent that they constitute a health hazard, are deemed by an enforcement officer to be in threat of spreading to adjoining premises or are exposed to public view.
10. "Junk" means 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 scrap ferrous materials; old or discarded glass, tin ware, 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.
11. "Nuisance" means physical conditions that are dangerous or detrimental to the health and safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property.
12. "Owner" means any person who alone, jointly or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
13. "Premises" means a lot, plot, or parcel of land together with the structures thereon.
14. "Public authority" means any officer of any department or branch of the City, County, or State charged with regulating health, fire, zoning or building regulations, or other activities concerning property in the City.
15. "Refuse" means any material that is not being used for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk, paper or cardboard,



plastic, metals, glass, yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food, crockery, bedding, furniture, or appliances; offal, rubbish, ashes or incinerator residue, construction debris, accumulation of animal feces, dead animals, or wastes from commercial or industrial processes.

16. “Responsible party” means any person having possession, charge, care, or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

17. “Vehicle” means any device designed to transport a person or property by land, air, or water, such as automobiles, trucks, travel trailers, mobile homes, trailers, motorcycles, tractors, buggies, wagons, boats, airplanes, or any combination thereof, except bicycles.

18. “Vehicle, inoperable” means any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics: broken, damaged, or missing windshield or other glass customary to the vehicle; a missing fender, door, bumper, hood, wheel, steering wheel, or exhaust system; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; has become a habitation for rats, mice, snakes, or other vermin or insects, or constitutes a threat to the public health and safety because of its defective or obsolete condition.

**144.06 GENERAL MAINTENANCE STANDARDS.** The exterior of every premises and structure shall be maintained in reasonable repair, to the end that the premises and each structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.

**144.07 MAINTENANCE OF PREMISES.** Each and every premises shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the responsible party to keep the premises free of all said conditions and to promptly remove and abate same, which include but are not limited to the following declared nuisances:

1. Weeds or grasses allowed to grow to a height greater than eight (8) inches; or any accumulation of dead weeds or grass on any non-farm property which is not within the jurisdiction of the County Weed Commissioner.
2. Accumulation of refuse not stored in suitable collection containers.
3. Any structure which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein

or in the vicinity thereof; any structure defined as abandoned or a public nuisance by Chapter 657A, *Code of Iowa*.

4. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction or siltation of drainage systems, or to violate solid waste disposal regulations.

5. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any non-farm property as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or water, provided, however that exception shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control.

6. Any nuisance as defined herein or described as such by Chapter 657 of the *Code of Iowa*.

7. Conditions which are conducive to the harborage or breeding of vermin.

8. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools, and drain fields, which have failed or do not function properly, as may be evidenced by overflow, leakage, seepage, or emanation of odors, or which do not comply with the Hardin County Department of Health regulations. Septic tanks, cisterns, and cesspools which are no longer in use shall be removed or emptied and filled with clean dirt or sand.

9. Fences or retaining walls that are not structurally sound or which are deteriorating as may be evidenced by leaning or loose elements.

10. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to safety or buildings; major parts thereof, such as a limb, which may be dead or broken or otherwise pose a threat of safety or buildings on adjoining premises; any vegetation located on private property which overhangs and is less and fifteen (15) above the traveled portion of any public street, or less than eight (8) feet vertically, or which protrudes into any public sidewalk.

11. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

12. Any inoperable vehicle which is exposed to public view, unless located on the premises of a lawfully operated junk yard or undergoing repairs in an expeditious manner at a vehicle repair business.

**144.08 BUILDING MAINTENANCE.** Every building shall be maintained to be weather and watertight, and free from excessively peeling paint (which shall equal 50 percent of the exterior structure) or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damage or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

**144.09 REFUSE.** Refuse shall be stored within a fully enclosed building or other location no exposed to public view or shall be removed from the premises. All refuse shall be contained in suitable collection containers; kept free from infestation; and shall be removed weekly.

**144.10 RE-SIDING AND RECONSTRUCTION.** Materials and practices used in reconstructions and re-siding shall be of standard quality and appearance commensurate with the character of other properties in the vicinity of the premises. Their appearance, as judged under prevailing appraisal practices and standards, shall not depreciate the value of the adjoining premises or the neighborhood.

**144.11 EXCEPTION FOR FARMS AND EXISTING ESTATES.** Farms and non-farm premises having an area of more than two acres shall be exempted from this Code.

**144.12 VIOLATIONS.**

1. Enforcement. The creation or maintenance of a violation of this Code is prohibited and shall constitute a civil infraction. Each day that a violation is permitted to continue constitutes a separate offense.

A. All inspections, enforcement actions, and hearings on violations, unless expressly states to the contrary, shall be under the direction and supervision of an enforcement officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The enforcement officer is hereby authorized to abate such violations in accordance with the procedures of this Code and to serve notices to abate same, whether upon the owner or other responsible party for a premises upon which a violation is being maintained, or upon the person or persons causing or maintaining a violation.

B. If a violation is found to exist on an owner-occupied premises and the owner demonstrated that the cost of remedying such violation

would exceed the household's annual disposable income and thereby cause a financial hardship, enforcement shall be held in temporary abeyance until a means of financing or assistance can be identified.

C. The objective of this Code is the abatement and/or removal of violations of this Code. Violations may be addressed by maintenance of an administrative abatement process; the municipal infraction process; by court proceeding; or by City abatement and assessment of cost therefor against the responsible party or assessment of cost against the property, in the discretion of the City. In determining whether to use the administrative abatement process or court proceedings, consideration will be given to evidence of whether an imminent health or safety hazard exists or whether the person has previously been notified of or charged with violations of the same or other provisions of the Code in the past.

D. It is further provided by this Code that if the City determines that an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the City may order such action as may be necessary to meet the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself.

2. Enforcement of Weeds or Grasses Violations Under Section 152.03 and 152.04 of the Eldora Code of Ordinances. In the event the Enforcement Officer chooses to utilize administrative abatement to address violations of Section 144.07 of this chapter, the said enforcement officer shall send a written notice to abate via certified mail to the owner of the property wherein the violation exists, which notice shall advise the owner of the said property that such weeds or grasses shall be cut or destroyed within seven (7) days of the date of the mailing of the notice. The owner may request a hearing before the Council to contest the existence of the violation. The request for hearing shall be in writing and shall identify the reasons why the owner contests the officer's determination and shall be delivered to the City Clerk before the end of the fifth (5<sup>th</sup>) day after mailing of the notice to the property owners. If no request for hearing is filed, the officer may cut or destroy the weeds or grasses or vegetation and may assess the costs thereof against the property unless the cost is paid within thirty (30) days of the invoice date by the owner. If a request for hearing is made, no action shall be taken to cut or destroy the weeds or grasses, unless such weeds or grasses shall be located within the sidewalk and the traveled portion of any street in the City, which grasses or weeds may be cut immediately by the enforcement officer. Any hearing so requested shall be held within three (3) days of the date of the request therefor.

3. Notice to Abate – Contents. The notice to abate shall contain:

A. Description of Nuisance. The description of what constitutes a nuisance.

- 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 Cost. 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 such property to be collected as taxes.
  - F. Request of Hearing. A statement that the responsible person may request a hearing before the Council and the time within which the request must be filed.
4. Notice. When service of a notice to abate is required, the following methods of service shall be deemed adequate:
- A. By certified mail upon the owner or other responsible party of the property upon which the nuisance exists, or upon the persons causing or maintaining the violation. In the event that the property is a leased premise, one notice shall be directed to the owner of the property and a copy shall be directed to the tenant on the property.
  - B. If service cannot be made under Paragraph A of this subsection, any two of the following methods of service shall be considered adequate.
    - (1) Personal service upon the owner or other responsible party.
    - (2) Publication of notice once a week for two consecutive weeks in a newspaper of general circulation in the City.
    - (3) By posting the notice in a conspicuous place on the property or building deemed to be a nuisance.
5. Request for Hearing. Any person affected by any notice to abate a violation of this Code may request a hearing on the matter before the Council, provided that a written request for hearing is filed with the City Clerk within five (5) days after the notice to abate was mailed. The appeal shall be filed on a form provided by the City for that purpose and shall state the particular section of the chapter or interpretation thereof being appealed, and a brief statement of the grounds upon which the request for hearing is made. Failure to file a timely request for hearing as prescribed therein shall constitute a waiver of the right to a hearing, and the notice to abate shall become final. The Council's determination an order shall be appealable to the Hardin County District Court by writ of certiorari. Such request for hearing shall be filed within twenty (20) days from the date of the Council's decision. The Council's order shall not be carried out until the time for the filing of the writ

of certiorari has expired. The timelines herein shall not apply to the provisions relating to weed or grass control under Section 144.07 of this chapter.

6. Abatement Remedies and Penalties. In the event that the violation is not abated as ordered and within the time specified, the City may abate such violation by any of the following means: (i) by undertaking such abatement and assessing the costs therefor against the property; (ii) by issuance of a civil citation charging the owner or responsible party with a municipal infraction. Abatement may include but is not limited to repair, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, barricading or fencing, demolition of dangerous or abandoned structures or portions thereof, and elimination of nuisances. Abatement costs may include the cost of removing or eliminating the violation; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs, and other related administrative costs. Inoperative or obsolete vehicles which have been impounded may be sold in accordance with State law. If a municipal infraction is sustained, the Court may order any one or more of the following:

- A. Enter judgement against the person and/or property of defendant for the costs of abatement.
- B. Levy a civil penalty against the defendant of up to \$750.00 for the first offence and up to \$1000.00 for repeat offences.
- C. Order abatement of the violation in any manner.
- D. Assess costs of abatement against the premises.

7. Emergency Abatement Procedure. If the enforcement officer determines that a violation exists and constitutes an imminent, clear, and compelling danger to health, safety or welfare of persons or property, the enforcement officer is authorized to abate the violation, or have it abated without prior notice and opportunity for hearing. The costs of such action may be assessed against the premises. However, prior to such assessment, the City shall give a property owner notice and opportunity for a hearing before the Council in accordance with Subsection 5 of this section.

#### **144.13 APPEALS TO THE COUNCIL.**

1. Authority. The Council is hereby empowered to hold hearings on appeals from the regulations of this Code.
2. Procedure. Upon receipt of a timely filed appeal, the City Clerk shall set a time and place for the Council to hear such appeal and shall notify the appellant thereof. The hearing shall be open to the public and shall be recorded either electronically or manually. All parties shall be afforded an opportunity to respond and present evidence and argument. If the appellant fails to appear at such hearing, the Council may proceed with the hearing and make a decision in the absence of the appellant. The Council's finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to relying for the conduct of their serious affairs, even if such

evidence would be inadmissible in a court of law. The Council's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. The Mayor shall conduct the hearing.

3. Decision of the Council. No hearing shall be valid unless a majority of the Council is present, and no appeal shall be granted unless reached by a majority of all members of the Council. The Council shall render a decision based upon the record, at the conclusion of the hearing, or within a reasonable time thereafter. The Council may affirm, modify, or reverse any action, interpretation, notice or order which has been issued in connection with the enforcement of this Code. Following the decision of the Council, all parties shall be notified of the decision personally or by general mail service delivered to the address provided by the party. Any party, including the City, may seek judicial review by filing a petition in the County District Court within twenty (20) days after the issuance of the decision of the Council.

*(Ch. 144 – Ord. 859 – May 20 Supp.)*

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## 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  
145.08 Costs  
145.09 Vacant Building Registration and Inspections  
145.10 Emergency Abatement Procedure

**145.01 ENFORCEMENT OFFICER.** The City Administrator or his/her duly appointed agent(s) are responsible for the enforcement of this chapter.  
*(Ord. 742 – Jun. 03 Supp.)*

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter or any ordinance, 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. Collapse of Member. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Wind Resistance. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.
3. Material Deterioration. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
4. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any

portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

5. 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.

6. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

7. Deterioration. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

8. Damaged Structurally. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction, or arrangement, inadequate light, air or sanitation facilities, 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.

10. Fire Hazard. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

11. Public Nuisance. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

12. 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 (6) 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 forty-eight (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 ninety (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.

**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 ELDORA, IOWA.” Such notice shall remain posted until the required repairs, demolition, or removal 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.** 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.

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

**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.

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

#### **145.09 VACANT BUILDING REGISTRATION AND INSPECTIONS.**

1. Vacant Building Registration.

A. The owner shall register a vacant or abandoned building with the City not later than thirty (30) calendar days after any building in the City becomes an “abandoned/vacant building” as defined in this chapter. Failure to register an abandoned/vacant building or providing false information to the City shall be a violation of this chapter and punishable as a simple misdemeanor or municipal infraction as provided for in Chapter 4 of this Code.

B. The registration shall include the following information:

- (1) A description of the premises;
- (2) The names and addresses of the owner or owners;
- (3) The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
- (4) The name of the agent designated to act on the behalf of an out of town property owner to accept legal processes and notices, and to authorize repairs as required; and
- (5) The period of time the building is expected to remain vacant and/or plan and timetable to comply with applicable City codes.

2. Vacant Building Registration Fees. The owner of a vacant building shall pay an annual fee reasonably related to the administrative cost of registering and processing the vacant building owner registration form and the costs of the City in monitoring and inspecting the vacant building site. This fee shall be established by resolution of the City Council and shall be paid in full prior to the issuance of any permits or acceptance of the registration form for the subject property.

3. Inspections. The owner shall allow inspections upon request and allow annual inspections of the interior and exterior of the premises for the purpose of enforcing and assuring compliance with the provisions of this chapter and housing and building codes.

4. Financial Security. Owner may be required to post bond or other security against possible liability for repairs or demolition.

*(Ord. 770 – Feb. 07 Supp.)*

**145.10 EMERGENCY ABATEMENT PROCEDURE.** When the City Manager or designee determines that a public nuisance exists on a property and the public nuisance constitutes an imminent and compelling danger to health, safety or welfare of persons or property, the City Manager or designee is authorized to abate or have abated the public nuisance without prior notice and opportunity of hearing. Administrative procedures for such emergency abatement shall be set forth by approved by the City Council. The costs of such action may be assessed against the property for collection in the same manner as property taxes. However, prior to such assessment, the City shall first seek abatement as a municipal infraction or other equitable action and provide the offending party and/or property owner an opportunity to appear and be heard.

*(Ord. 770 – Feb. 07 Supp.)*

#### **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 of 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.

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.02 Conversion to Real Property

### 146.03 Foundation Requirements

**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. “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.
3. “Mobile home park” means any site, lot, field or tract of land upon which three (3) 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 “mobile home park” is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The 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 which is located outside a 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 & Sec. 435.35)*

1. Dealer's Stock. Mobile homes or manufactured homes on private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a 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 mobile home park shall be placed on a permanent frost-free foundation system which 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)*



## CHAPTER 147

### FIRE ZONE

147.01 Fire Zone Established  
147.02 Plans Submitted  
147.03 Buildings Prohibited  
147.04 Construction Standards

147.05 Reconstruction Prohibited  
147.06 Special Permit  
147.07 Removal of Buildings  
147.08 Storage of Materials Restricted

**147.01 FIRE ZONE ESTABLISHED.** A Fire Zone is established to include all of the following territory:

Block No. Three (3), Block No. Four (4), Block No. Seven (7), Block No. Eight (8), Block No. Nine (9), Block No. Twelve (12), Block No. Thirteen (13), Block No. Sixteen (16), and Block No. Seventeen (17), all in the original town plot of the City.

and

Block No. One (1); Block No. Two (2); Lot No. Eleven (11) of Outlot No. Five (5); Lots No. Four (4), Five (5), Six (6) and Seven (7) of Block No. Six (6); Lots No. One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8) of Block No. Fourteen (14); Lots No. One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8) of Block No. Twenty-three (23); Lots No. One (1), Two (2), Three (3), Four (4), Five (5) and Six (6) of Block No. Eighteen (18), all in Original Town Plot of the City.

**147.02 PLANS SUBMITTED.** It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

**147.03 BUILDINGS PROHIBITED.** The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

**147.04 CONSTRUCTION STANDARDS.** The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

**147.05 RECONSTRUCTION PROHIBITED.** Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be

rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

**147.06 SPECIAL PERMIT.** The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

**147.07 REMOVAL OF BUILDINGS.** Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

**147.08 STORAGE OF MATERIALS RESTRICTED.** No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

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## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Map

**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 (2) 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 thirty (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 MAP.** The Clerk shall be responsible for preparing and maintaining a building numbering map.

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## CHAPTER 151

### TREES

151.01 Definition  
151.02 Planting Restrictions  
151.03 Duty to Trim Trees  
151.04 Permission to Trim

151.05 Disease Control  
151.06 Inspection and Removal  
151.07 Liability of Abutting Landowners  
151.08 Licensing of Tree Trimmers  
151.09 City Tree Plan and Landscape Plan

**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.**

1. Approval Required. No trees shall be planted, seeded or permitted to grow from self-seeding in any of the streets or parking strips in the City, unless first approved by the Council.
2. Location. No trees or shrubs shall be planted, seeded or permitted to grow from self-seeding on any street, parking or private property within four (4) feet from any public sidewalk or sidewalk area along the property line, or in any place where they will, at the time of planting or when they get their growth, obstruct the view of those operating motor vehicles at street intersections. All trees and shrubs shall be placed so as to avoid unnecessary interference with overhead utility wires or underground cables, sewers or drains. Any deviation from these provisions must be approved by the Council.
3. Prohibited Trees on Public Property. No person shall plant in any street or parking any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.
4. Prohibited Trees on Private Property. No person shall plant, seed, or permit to grow from self-seeding any cottonwood trees, other cotton-bearing trees, or elm trees on any private property within the City, unless first approved by the Council.

**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 twelve (12) feet above the surface of the street or sidewalk. 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 (5) 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, d & e])*

**151.04 PERMISSION TO TRIM.** Except as allowed in Section 151.03, no person shall trim or cut any tree in any public street or other public place without permission of the Council.

**151.05 DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which 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 fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt 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])*

**151.07 LIABILITY OF ABUTTING LANDOWNERS.** Except as to diseased or dead trees the abutting landowner shall be liable for the failure to reasonably maintain trees in the parkway or right-of-way, notwithstanding whether or not any notice has or has not been served under this chapter. If damages are to be awarded under this section against the abutting property

owner, the claimant has the burden of proving the amount of the damages. To authorize recovery of more than a nominal amount, facts must exist and be shown by the evidence which afford a reasonable basis for measuring the amount of the claimant's actual damages, and the amount of actual damages shall not be determined by speculation, conjecture, or surmise. All legal or equitable defenses are available to the abutting property owner in an action brought pursuant to this section.

**151.08 LICENSING OF TREE TRIMMERS.** Any and all tree surgeons, tree trimmers or tree cutters engaged in the removal or trimming of trees shall obtain a license to operate and perform any such service in the City, said license fee to be in the sum of fifty dollars (\$50.00), and any applicant for such a license shall provide sufficient and adequate liability insurance to protect persons and property in the sum of five hundred thousand dollars (\$500,000.00), which insurance shall be approved by the City before any license will be issued. Licenses shall be good for one year and shall be renewed by July 1<sup>st</sup>. *(Ord. 856 – Oct. 19 Supp.)*

**151.09 CITY TREE PLAN AND LANDSCAPE PLAN.**

1. Purpose. This section establishes a long-range vision of Eldora, which recognizes that the aesthetics, amenities and infrastructure of a city are more than just luxuries for its residents; they are vital ingredients to maintain and create cultural and economic value for the members of the community. The purpose of this section is to establish planting specifications and maintenance requirements for any street, parking strip or other public use areas under the jurisdiction of the City of Eldora.
2. Objectives. The goal of maintaining the aesthetic image of Eldora is intended to contribute to a strong sense of neighborhood and community. The objectives of this section are:
  - A. To safeguard and enhance property values and protect public and private investment.
  - B. To significantly impact the City's future quality of life.
  - C. To preserve and enhance our natural environment and aid in stabilizing the environment's ecological balance.
  - D. To encourage the preservation of trees, which promote clean air, provide shade, beautify the environment, reduce the amount of soil runoff and minimize erosion.
  - E. To establish height, spacing and placement of trees for public areas.

- F. To prohibit the indiscriminate removal of trees.
- 3. Definitions.
  - A. Street: All that tract of land used or set out to be used for a public thoroughfare lying between the property lines extending along each side thereof.
  - B. May: The indicated action is permissive.
  - C. Shall: The indicated action is mandatory.
  - D. Shrub: Any multiple stemmed woody plant with a mature height less than fifteen feet.
  - E. Tree: Any single stemmed woody plant with a mature height of a minimum of fifteen feet.
  - F. Small Tree: Any tree with a mature height of fifteen to twenty-five feet.
  - G. Large Tree: Any tree with a mature height of more than twenty-five feet.
  - H. Street Tree: Any tree on land lying between the property line on either side of all street, avenues, or ways within the City.
  - I. Park Tree: Trees, shrubs and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.
  - J. Parkway: Land lying between the property line on either side of all street, avenues or ways within the City.
- 4. Permits. A permit granted by the City Administrator, with recommendation by the City Tree Board, is required prior to planting, destruction or removal of a street tree.
- 5. Planting of Trees. Hereafter no trees shall be planted, seeded or permitted to grow from self-seeding in any parks, along streets and in other public areas in the City, unless first presented to the City Tree Board and then approved by the City Council. No trees or shrubs shall hereafter be planted, seeded or permitted to grow from self-seeding where they will at the time of planting or as a mature specimen detract from the health, safety and welfare of the public. All trees and shrubs shall hereafter be placed so as to avoid unnecessary interference with overhead utility wire, underground cables, gas mains, sanitary sewer services and mains, storm sewers, water service lines and mains, and any other infrastructure necessary to the area. The City Tree Board must



agree to and the City Council must approve any deviation from the provisions of this section.

6. Visibility Triangles. No tree, shrub, soil or other landscape material or any fence, wall, structure or other obstruction having a height greater than two feet as measured from the top of the curb of the adjacent streets shall be placed within any visibility triangle as defined herein. This restriction shall not apply to trees within the parkway area not more than twelve inches in diameter, when measured two feet above curb level when such trees are trimmed at all times so that no branch or growth is less than twelve feet above any portion of a street or eight feet above the curb level at all other points. This restriction shall not apply to permanent buildings or utility related equipment placed within such area by the approval of the City Council.

7. Planting Specifications. Small trees shall be planted at least twenty feet from one another but not closer than thirty feet from a large tree. Large trees shall be planted at least thirty feet from one another.

No small tree shall be planted on parkways that are less than eight feet wide. Small trees shall be planted not less than four feet to the curb or curb line. No large trees shall be planted on parkways that are less than twelve feet wide and shall be planted not less than six feet to the curb or curb line. Whenever possible, trees shall be centered between the curb or curb line and the sidewalk or property line.

Trees planted on the parkway shall be at least twenty feet from intersecting lot lines, at least five feet from any alley or driveway, and at least ten feet from any fireplug or utility pole adhering to the visibility triangle regulations.

Trees planted under utility lines shall reach a maximum height of twenty-five feet at maturity. Large trees shall be planted so that branches do not come within ten feet of power lines.

8. Prohibited Trees and Shrubs. The following varieties are prohibited for use on City streets due to hazardous thorns, weak wood, and messy fruit, to disease or insects or undesirable growth habits. This list may be updated at any time.

A.	Populus deltoids	Cottonwood
B.	Populus species	Popular
C.	Acer saccharins	Silver Maple
D.	Acer negundo	Boxelder
E.	Uhnus americans	American Elm
F.	Ulmus parvifulia	Siberian Elm

G.	Crategus species	Hawthorn
H.	Gleditsia triacanthus	Locust (excluding thornless and seedless varieties)
I.	Ginkgo biloba	Ginkgo (female)
J.	Elaeagnus angustifolia	Russian Olive
K.	Abies species	Fir
L.	Juniperus species	Juniper
M.	Larix species	Larch
N.	Picea species	Spruce
O.	Pinus species	Pine
P.	Pseudotsuga species	Douglas Fir
Q.	Taxus species	Arborvitae
R.	Thuja species	Yew
S.	Tsuga species	Hemlock
T.	Betula papyrifera	White Birch
U.	Quercus palustris	Pin Oak
V.	Salix species	Willow
W.	Catalpa species	Catalpas

9. Landowner Responsibilities. Every owner or occupant of real property bordering upon any street, alley, or public place shall keep the branches of any tree overhanging any street or right-of-way within the City pruned so that they shall not obstruct the light from any street lamp or obstruct the view of any street intersection. They shall maintain a clear space of twelve feet about the surface of the right-of-way grounds and eight feet above any sidewalk. Said owner shall remove all dead, diseased or dangerous broken or decayed limbs that constitute a menace to the health, safety, or welfare of the public. Except as to diseased or dead trees the abutting landowner shall be liable for the failure to reasonably maintain trees in the parkway or right-of-way, notwithstanding whether or not any notice has or has not been served under this chapter.

10. Public Tree Care. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alley, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public ground. The City, upon recommendation of the City Tree Board, may remove or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, underground cables or public improvements, or is infected with or affected by any injurious fungus, insect or other pest.

The City shall have the right to prune any tree, shrub, plant or plant part on private property when it interferes with the proper spread of light along the street from a street light, interferes with visibility or any traffic control device or sign, interferes with the free passage of pedestrian traffic on sidewalk, or causes electric service interruptions.

11. Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

12. Abuse or Mutilation of Public Trees. It shall be unlawful as a normal practice for any person, firm, or City department to top any street, park, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the City Council, upon the recommendation of the City Tree Board.

Unless specifically authorized by the City Tree Board, no person shall intentionally damage, cut, carve, transplant, or remove any tree on public property; attach any rope, wire, nail, advertising poster, or other contrivance to any tree on public property; allow any gas, liquid or solid substance that is harmful to such trees come in contact with them or their roots; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree on public property. Growth retardants approved by the City Tree Board may be utilized and shall not be a violation of this section.

13. Notice to Trim. The City shall provide written notice to landowner of record of a violation of this section by ordinary mail to the landowner's last known address. Such notice shall provide a reasonable time by which the violation shall be remedied, but not less than ten days from the time of the mailing.

14. Landowner Appeal. The landowner wishing to appeal the notice to trim shall file the notice of appeal with the City Clerk within five days of receiving the notice. The City Council shall hear the appeal at its next regularly scheduled meeting. Failure of the landowner to appear at the next regularly scheduled meeting shall be conclusively presumed as an admission of the violation.

*(Ord. 740 – Jun. 03 Supp.)*

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## CHAPTER 152

### WEEDS AND GRASS

152.01 Weeds; Destruction  
152.02 Noxious Weeds Designated  
152.03 Failure to Destroy

152.04 Height of Grass Restricted  
152.05 Nuisance

**152.01 WEEDS; DESTRUCTION.** It is the duty of each owner, occupant, person, company or corporation in control of any lands within the City, whether the same consists of improved or unimproved lands or lands used for railway right-of-way or depot grounds, or lots used for any purpose whatsoever, to cut, burn or otherwise entirely destroy all noxious weeds growing on said lands and to the middle of the street immediately adjacent thereto, at such times in each year and in such manner as shall prevent the said weeds from blooming or reaching maturity, and to keep the said lands and parkings free from such growths of other weeds as shall render the streets or highways adjoining the same unsafe for public travel or shall interfere in any manner with the proper construction or repair of said public streets or highways, and shall cause to be cut, near the surface of the ground, all weeds on the streets or highways adjoining said lands, between July 1 and August 1 of each year, except in the case of noxious weeds which reach maturity before July 15, and such weeds shall be destroyed as herein provided at such times in each year and in such manner as shall prevent the said weeds from blooming or reaching maturity.

**152.02 NOXIOUS WEEDS DESIGNATED.** The following weeds are hereby declared to be noxious weeds: Quack grass (*agropyron repens*), Canada thistle (*cirsium arvense*), cockle burr (*xanthium canadense*), wild mustard (*brassica arvensis*), sour or curled dock (*rumex crispus*), smooth dock (*rumex altissimus*), buckhorn or ribbed plantain (*plantago lanceolata*), wild parsnip (*pastinaca sativa*), horse nettle (*solnum colarinense*), velvet weed or button weed (*abutilon theophrasti*), burdock (*arcrium lappa*), shoo-fly (*hibiscus trionum*), wild carrot (*daucus carota*), Russian thistle (*salsola kali*, L. Var. *Tagrus*).

**152.03 FAILURE TO DESTROY.** If any such owner, occupant, person, company or corporation in control of any such land, including streets, shall fail or neglect to do the things necessary to prevent the said noxious weeds on any such land from blooming or coming to maturity, or shall permit weeds thereon contrary to the provisions hereof, or if it appears that there is danger that any such noxious weeds on any land may mature, then, upon their own motion, or upon complaint made to any member thereof or to the Mayor it shall be the duty of the Council to make investigation of such conditions or complaint, or

cause investigation thereof to be made, and if it appears that there is danger that any such noxious weeds may mature, the Council shall make an order fixing the time within which the weeds shall be prevented from maturing seed or the said weeds shall be destroyed, prescribing the manner of their destruction, and shall forthwith give notice in writing of said order personally to the owner of the land upon which the weeds are growing or the street immediately adjacent thereto, if service of such notice can be made within the City, and if it cannot be so served, then by mailing such notice by registered mail to the owner at said owner's last known address; and also by giving a copy of the notice to the company, person or corporation in the apparent control of the said land, whose duty it shall also be to mail said notice to the owner, and if the order so made is not substantially complied with by the time fixed in the order and after reasonable notice as herein provided, then it shall be the duty of the Council to cause said order to be fully performed, and the said noxious weeds destroyed, and the expense of the same, including the costs of serving said notice, shall be assessed to the property owner.

#### **152.04 HEIGHT OF GRASS RESTRICTED.**

1. Purpose. The purpose of this section is to establish a maximum height that grass on lands within the City may be grown before it must be cut.
2. Height of Grass. Grass growing on lands within the City shall be cut on a periodic basis so that the height of such grass is never greater than eight (8) inches in height.
3. Violation. Upon the determination by the designated municipal officer by visual observation and measurement that a violation of this section has occurred, the City will send written notice by certified mail to the landowner informing said owner of the problem and the action that is to be taken.
4. Notice. The notice will set forth that the property owner has seven (7) days from the date of the notice to have the grass cut so that the height conforms with this section. The notice will set forth the address of the property in question and will instruct the landowner that this notice constitutes notice for the balance of the summer that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given.
5. Failure to Cut Grass. If any such owner, who has been sent notice, fails to cut the grass on said owner's property as set forth in the notice so that it conforms with this section within the time period set forth in the notice, the designated municipal officer will instruct the Department of Public Works to mow the grass so that the property

conforms with this section. The cost of this action will be assessed against the property. The fee for this service will be set by resolution.

6. Additional Violation. Any landowner who violates this section will be given one notice per summer and the City will be authorized to respond to additional violations without additional written notice being given.

7. Exceptions. This section pertains to all residential, commercial and industrial land within the City limits, but excludes agricultural land within the City.

8. The remedies for enforcement provided in this Chapter are not exclusive and do not preclude the City from enforcing the provisions of this Code of Ordinances by other lawful means, including but not limited to criminal citations, municipal infractions, civil penalties, civil lawsuits and alternative reliefs or remedies contemplated by this Code of Ordinances or state law. *(Ord. 830 – Oct. 14 Supp.)*

**152.05 NUISANCE.** It is hereby declared that a violation of the provisions of this Chapter constitutes a threat to the health and safety of the citizens and such a violation is a nuisance within the meaning of Section 657.1 of the Code of Iowa and Chapter 50 of this Code of Ordinances. *(Ord. 830 – Oct. 14 Supp.)*

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## CHAPTER 155

### DEMOLITION OF BUILDINGS

155.01 General  
155.02 Application for Permit  
155.03 Condition Precedent  
155.04 Issuance; Denial  
155.05 Inspection

155.06 Amendments  
155.07 Appeals  
155.08 Removal of Rubbish and Refuse  
155.09 Enforcement, Violation and Penalty

**155.01 GENERAL.** No person shall demolish or cause the demolition of a building or portion of a building within City limits without complying with the provisions of this chapter.

**155.02 APPLICATION FOR PERMIT.** The owner, agent, lessee, or occupant of the subject building or the person proposing to demolish the subject building shall make a written application to the City Clerk for a permit for demolition prior to commencing demolition.

1. Contents of Application. Said application must contain:
  - A. Street address of the building to be demolished.
  - B. Date the intended demolition is to commence and the date the intended demolition shall be completed.
  - C. Method of demolition.
  - D. Safeguards to the public shall include, but are not limited to, barricades, if the demolition shall take more than one day to complete.
  - E. Said application for permit shall also contain a stipulation that in the performance of the work all the conditions, requirements and provisions of this chapter shall be complied with.
2. Fee. The fee for the application for demolition is Twenty-five Dollars (\$25.00). Any future increase shall be by resolution of the Council.

*(Ord. 843 – Jun. 16 Supp.)*

**155.03 CONDITION PRECEDENT.** No demolition shall commence prior to the issuance of a permit as provided herein.

**155.04 ISSUANCE; DENIAL.** The City Administrator, upon receipt of an application for demolition prepared in accordance with this chapter, as well as the required fee, shall issue a demolition permit. However, the City

Administrator shall deny an application which does not comply with this chapter. In considering whether or not an application complies, the City Administrator shall consider:

1. Safeguards to the public;
2. Amount of time/duration of demolition; and
3. Method of demolition.

**155.05 INSPECTION.** The City Administrator shall have a right of entry upon any property for which a demolition permit has been issued to ensure compliance with this chapter and with any demolition permit issued.

**155.06 AMENDMENTS.** An applicant may not alter the terms of a demolition permit without applying for and receiving an Amendment to Demolition Permit. The City Administrator shall review applications to amend and grant the same only upon a showing of good cause.

**155.07 APPEALS.** Any applicant aggrieved by the decision of the City Administrator may appeal to the Zoning Board of Adjustment. Such appeal shall be taken within ten (10) days of the action objected by filing with the City Administrator and with the Board a notice of appeal specifying the grounds thereof. The City Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

**155.08 REMOVAL OF RUBBISH AND REFUSE.** The owner of the building or the person performing the demolition shall be responsible for the removal of all rubbish and refuse associated with the demolition and the application for a demolition permit shall state such requirement.

**155.09 ENFORCEMENT, VIOLATION AND PENALTY.**

1. Enforcement. The City Administrator may order any demolition to cease which is not in compliance with this chapter or with a demolition permit issued.
2. Penalties For Violation. Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in or maintains such violation, may each be found guilty of a separate offense. Nothing

herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

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## CHAPTER 156

### SIGNS

156.01 Title; Scope; Purpose	156.15 Traffic Hazards
156.02 Definitions	156.16 Reflector Lights
156.03 Measurement Standards	156.17 Spotlights and Floodlights
156.04 Permits; Fee Required	156.18 On-premises Signage
156.05 Applications for Permits	156.19 Ground Signs
156.06 Permit Issued if Application in Order	156.20 Wall Signs
156.07 Inspection	156.21 Roof Signs
156.08 Permit Revocation	156.22 Projecting Signs
156.09 Construction	156.23 Temporary and/or Portable Signs
156.10 Maintenance Provisions	156.24 Marquee Signs
156.11 Removal of Certain Signs	156.25 Awning and Canopy Signs
156.12 Prohibitions	156.26 Nonconforming Signs
156.13 Exemptions From Permits	156.27 Board of Adjustment
156.14 Obstruction to Doors, Windows or Fire Escapes	

**156.01 TITLE; SCOPE; PURPOSE.** This chapter may hereafter be known and cited as the “Sign Regulations.” The provisions of this chapter shall govern the construction, repair, erection, alteration, location, and maintenance of privately owned outdoor signs and outdoor advertising and identification devices of every kind, together with their appurtenant and auxiliary devices. The Sign Regulations are found and declared to be necessary and proper to the following purposes:

1. To protect property values within the City.
2. To protect the occurrence of urban blight and slum conditions.
3. To protect the general public from damage and injury which may be caused by the faulty and unregulated use of signs.
4. To prevent any unreasonable appropriation of the public domain, its open spaces, streets and ways to private use.
5. To restore, preserve and promote aesthetic character in the City.

**156.02 DEFINITIONS.**

1. “Awning sign” means any sign affixed directly on or attached to an awning.
2. “Canopy sign” means any sign mounted on or supported by a canopy.
3. “Ground sign” means any sign supported by one or more uprights or braces placed upon or set into the ground.

4. "Illuminated sign" means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
5. "Marquee sign" means any sign mounted on or supported by a marquee.
6. "Off-premises signs" means signs not located at the site of that which is advertised or identified.
7. "On-premises signs" means signs located at the site of that which is advertised or identified.
8. "Projecting sign" means any sign other than a wall sign which is attached to a building and extends beyond the line of said building.
9. "Roof sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building.
10. "Sign" means any advertising device or surface out-of-doors, on or off-premises, which conveys information or identification.
11. "Sign structure" means an element or assemblage of elements which supports or is capable of supporting a sign. A sign structure may be free-standing, attached to a building, an integral part of the building, or a combination thereof.
12. "Structural member" means a component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stress other than their own weight, and functioning as an in-fill or nonstructural enclosure.
13. "Temporary sign" and/or "portable sign" means any sign, banner, pennant, valance, to be displayed for a limited time only, or any sign set upon the ground unsecured. A portable sign is any sign set upon or affixed to any device or ground with wheels or skids or framing so as to afford portability by persons or auxiliary devices.
14. "Wall sign" means any sign, impressed or painted on, or attached to a wall with the exposed face of the sign in a plane approximately parallel to the plane of the wall.

**156.03 MEASUREMENT STANDARDS.** If a sign has two (2) or more faces, the area of all faces shall be included in determining the total area of the sign; except that if two (2) sign faces are placed back to back, and are at no point more than thirty (30) inches from one another, the area of the sign shall be taken as the area of one face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

**156.04 PERMITS; FEE REQUIRED.** It is unlawful for any person to erect, alter structurally or relocate within the City any sign as herein defined without first obtaining a permit from the Building Official. Charge will be set by resolution. *(Ord. 788 – Apr. 09 Supp.)*

**156.05 APPLICATIONS FOR PERMITS.** Applications for permits shall be made upon blanks provided by the Building Official and shall contain or have attached thereto the following information.

1. The name, address and telephone number of the applicant.
2. The location of the building, structure or lot where the sign is to be located.
3. Position of signs in relation to nearby buildings or structures.
4. Two (2) blueprints or ink drawings of the plans and specifications and the method of construction and attachment to the building or on the ground.
5. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected.
6. The name of the person, firm, corporation or association to do the work of installing or erecting the sign.
7. Such other information as the Building Official shall require to show full compliance with this and all other laws and ordinances of the City which may be applicable, including the intended duration of temporary signs.

**156.06 PERMIT ISSUED IF APPLICATION IN ORDER.** It shall be the duty of the Building Official upon the filing of an application for a permit to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign, and if it appears that the provisions of the sign regulations and all other laws and ordinances of the City are complied with, said official shall then issue the permit. If the work authorized by such permit is not completed in six (6) months from the date of its issuance such permit shall become null and void.

**156.07 INSPECTION.** The Building Official or designees may inspect signs subject to the provisions of the sign regulations for the purpose of determining whether the same are in compliance with the sign regulations.

**156.08 PERMIT REVOCATION.** If the Building Official finds that any sign subject to the sign regulations is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of the sign regulations, the Building Official shall give written

notice thereof to the person in possession and control of the premises on which the sign is located. If such person fails to remove or alter the sign so that it complies with the provisions of the sign regulations within thirty (30) days of such notice, such person shall be guilty of a misdemeanor. If a sign is an immediate hazard, the Building Official may cause it to be removed immediately. A permit for a sign is a license revocable at any time by the Board of Adjustment for the City subsequent to notice to the permittee and an opportunity for the permittee to be heard by said Board of Adjustment.

**156.09 CONSTRUCTION.** All signs shall be constructed in such a manner and installed with such materials so as to be considered safe and substantial by the Building Official. The Building Official may require a copy of stress sheets and calculations showing the structures are designed for deadload and wind velocity in the amount required by the Uniform Building Code.

**156.10 MAINTENANCE PROVISIONS.** Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.

**156.11 REMOVAL OF CERTAIN SIGNS.** Any sign now or hereafter existing, which for a period of six (6) months no longer advertises a bona fide business conducted, or a product sold or a service offered, shall be taken down and removed by the owner or owners of the building or premises upon which it is located within thirty (30) days of written notice from the Building Official.

**156.12 PROHIBITIONS.** No person shall have or permit on any premises.

1. Any permanent sign which consists of or incorporates pennants, twirler lights, pinwheels, whirligigs or other displays or devices which are designed to be activated by atmospheric conditions so as to attract or distract the attention of the public by virtue of their movements.
2. A ground sign which extends to any degree over public property.
3. Any off-premises sign nearer than three hundred fifty (350) feet radius to any other off-premises sign.
4. Any off-premises sign exceeding three hundred (300) square feet or containing more than two (2) surfaces back to back.
5. Any off-premises sign in the following zoning districts of the City: R-1, R-2, R-3.
6. Signs attached to or placed upon rocks, fences, trees or utility poles.



7. Ground signs, marquee signs and projecting signs in C-2 zoned areas.

**156.13 EXEMPTIONS FROM PERMITS.** The following signs shall not require a permit; however, such signs shall be subject to the sign regulations:

1. Nonelectrical real estate signs not exceeding six (6) square feet in area, which advertise the sale, rental or lease of the premises upon which said signs are located only.
2. Signs, including bulletin boards, which are not over sixteen (16) square feet in area for public, educational, charitable, fraternal or religious institutions when the same are located on the premises of such institution.
3. Signs denoting only the name and profession/business of an occupant in a commercial building, public institutional building, or dwelling house and not exceeding two (2) square feet in area.
4. A nonelectrical sign denoting the architect, engineer or contractor when placed upon work under construction and not exceeding thirty-two (32) square feet in area.
5. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
6. Publicly owned street name signs, traffic control signs, legal notice, railroad crossing signs, danger and temporary warning or emergency signs; and emblems, names, logos and symbols on motor vehicles and equipment being used for purposes other than the display of signs or advertising devices.
7. Public service signs which give only directions “in and out” or signs which provide only information about directing people to ancillary facilities such as parking, entrance, etc.
8. A nonelectrical temporary sign supporting a candidacy for office or urging action on any other matter on the ballot of a primary, general or special election, or City election.
9. A temporary or portable sign.

**156.14 OBSTRUCTION TO DOORS, WINDOWS OR FIRE ESCAPES.** No person shall erect, locate or maintain any sign so as to prevent free ingress to or egress from any door, window or fire escape. No person shall attach any sign of any kind to a stand pipe or fire escape.

**156.15 TRAFFIC HAZARDS.** No person shall erect any sign at the intersection of any street in such a manner as to obstruct free and clear vision of such intersection, or at any location where by reason of the position, shape or color it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.

**156.16 REFLECTOR LIGHTS.** Lighting is permitted on signs; provided, however, the reflectors shall be provided with proper lenses, concentrating the illumination on the area of the sign so as to prevent glare upon the street or adjacent property.

**156.17 SPOTLIGHTS AND FLOODLIGHTS.** It is unlawful for any person to have any sign which is wholly or partially illuminated by floodlights or spotlights that interfere with the vision of pedestrian or vehicular traffic, or are a nuisance to persons occupying neighboring properties.

**156.18 ON-PREMISES SIGNAGE.** For all signs subject to the sign regulations, in commercial and industrial zoning districts in the City, signs attached to the front of the building shall not exceed two (2) square feet of signage for every foot occupied by the front of the building displaying the sign. Where any side of a building abuts on an alley, only flush mounted wall signs shall be permitted on the side abutting the alley. Signs on the side of buildings shall not be larger than the sign attached to the front of the building. For all signs subject to the sign regulations in residential zoning districts in the City, only the following signs are permitted.

1. Real estate signs not exceeding six (6) square feet in area, which advertise the sale, rental or lease of the premises upon which said signs are located only.
2. Signs, including bulletin boards, which are not over sixteen (16) square feet in area for public, educational, charitable, fraternal or religious institutions when the same are located on the premises of such institution.
3. Signs denoting only the name and profession/business of an occupant in a commercial building, public institutional building, or dwelling house and not exceeding two (2) square feet in area.
4. Single sign denoting the architect, engineer or contractor when placed upon work under construction and not exceeding thirty-two (32) square feet in area.
5. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

6. Publicly owned street name signs, traffic control signs, legal notices, railroad crossing signs, danger and temporary warning or emergency signs; and emblems, names, logos and symbols and motor vehicles and equipment being used for purposes other than the display of signs or advertising devices.
7. Public service signs which give only directions “in and out” or signs which provide only information about directing people to ancillary facilities such as parking, entrance, etc.
8. Temporary signs supporting a candidacy for office or urging action on any other matter on the ballot of a primary, general or special election, or City election.
9. Temporary or portable signs.
10. Signs bearing the name and address of a residential development having a character of design and construction in harmony with that of the development itself, and not exceeding thirty-two (32) square feet in area. Such signs may be incorporated in or affixed to fences or walls, provided that all applicable standards and requirements contained in this chapter or other provisions of this Code of Ordinances are complied with.

**156.19 GROUND SIGNS.** All ground signs subject to sign regulations shall meet the following requirements:

1. All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with or attached to or superimposed upon any ground sign shall be safely and securely built or attached to the sign’s structure.
2. Signs and location:
  - A. It is unlawful to erect or permit any ground sign of a height greater than fifty (50) feet.
  - B. Off-premises ground signs will be permitted to have a maximum of three hundred (300) square feet of sign surface on a side.
  - C. No ground sign shall be erected or permitted nearer the street than the property line and no part of said sign shall be permitted to overhang the public domain.
  - D. The minimum distance between on-premises ground signs on any one business location shall be fifty (50) feet.
  - E. Any ground sign which is over five (5) feet wide shall:

- (1) Have the bottom of the sign not less than ten (10) feet above the sidewalk or eight (8) feet above the surface of the ground upon which it is erected, or
  - (2) Be at least six (6) feet back from the property line for the entire sign.
3. The premises surrounding all ground signs shall be maintained by the owner thereof in a sanitary and uncluttered condition, free and clear of all obnoxious substances, rubbish, litter and weeds.

**156.20 WALL SIGNS.** Wall signs subject to the sign regulations shall meet the following location requirements.

1. **Limitation on Placement.** No wall sign shall cover wholly or partially any wall opening or project beyond the ends or tops of the wall to which it is attached.
2. **Projection Over Public Property.** No wall sign shall be erected in a plane which is more than twelve (12) inches over the surface of any public property.
3. **Alleys.** No wall signs shall be erected in a plane which is more than four (4) inches from the wall.

**156.21 ROOF SIGNS.**

1. **Materials.** The uprights, supports and braces thereof shall be constructed of materials approved by the Building Official.
2. **Location.**
  - A. **Height Limitations.** No roof sign shall have its highest point extend more than twenty (20) feet above the roof level.
  - B. **Setback From Roof Edge.** No roof sign shall be erected or maintained with a face thereof nearer than five (5) feet to the outside wall toward the sign faces.

C. Prohibited Obstructions. No roof sign shall be placed on the roof of any building or structure in such a manner as to prevent free passage from one part of said roof to another part thereof, or interfere with openings on said roof.

3. Bracing, Anchorage and Supports. Every roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces. The sign supports shall be anchored into the basic building structure, roof joists, or roof girders. The bearing points of such sign may bear on masonry walls or intermediate steel columns in the building or shall be supported or anchored to the structural members of the building.

4. Off Premises. Off premises roof signs shall not be permitted.

**156.22 PROJECTING SIGNS.** All projecting signs subject to the sign regulations shall meet the following requirements:

1. Support. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural members of the building to the ground in such manner as not to overstress any of the elements thereof.

2. Limitations on Glass. The lettering or advertising design to be illuminated on projecting signs may be composed of glass or other transparent or semi-transparent material. Any glass forming a part of any sign shall be safety glass or wire glass.

3. Movable Parts to be Secured. Any movable parts of a projecting sign such as a cover of a service opening shall be securely fastened by safety chains or hinges.

4. Height Limitations. The top line of the projecting sign shall not be higher than the roof or parapet line of the building to which attached, except that when the roof line is less than fifteen (15) feet in height, the sign may extend three (3) feet above; but under no circumstances shall the top line of a projecting sign be permitted at a height of more than fifty (50) feet above the ground level.

5. Thickness Limitations. The distance measured between the principal faces of any projecting sign shall not exceed eighteen (18) inches.

6. Location. The bottom line of every projecting sign shall be placed at least ten (10) feet above any public sidewalk or eight (8) feet above the surface of the ground over which it is erected. A maximum

extension of six (6) feet will be permitted. No projecting signs shall be erected in an alleyway. No projecting signs shall project across or over any portion of a public roadway. The minimum distance between projecting signs on any one business location shall be fifty (50) feet.

**156.23 TEMPORARY AND/OR PORTABLE SIGNS.** Temporary and/or portable signs subject to the sign regulations shall meet the following requirements:

1. A banner shall not exceed one hundred (100) square feet in area. All other temporary and/or portable signs shall not exceed thirty-two (32) square feet in area.
2. An advertisement or announcement contained on any temporary and/or portable sign shall pertain only to civic, political, religious, fraternal or other nonprofit activities. Temporary or portable signs for the purpose of commercial advertising are prohibited, except for announcement of special one-time sales or one-time events or occurrences not exceeding fifteen (15) days. No temporary or portable sign shall be displayed longer than fifteen (15) consecutive days, except that political campaign signs and signs pertaining to any election or ballot issue in an election may be displayed any length of time but shall be removed by the person in possession and control of the property on which they are displayed, not later than five (5) days following the election to which said signs shall pertain.
3. No fee will be required, but a permit will be required for all temporary and portable signs.

**156.24 MARQUEE SIGNS.** Marquee signs subject to the sign regulations shall meet the following provisions:

1. Signs attached to or placed upon the roof of a marquee shall be completely within the border line of the marquee's outer edge.
2. Signs hung from a marquee shall be completely within the border line of the marquee's outer edge and in no instance shall the bottom of said sign be lower than seven and one-half (7½) feet above the sidewalk or public thoroughfare. No hanging or suspended sign shall exceed eighteen (18) inches in height overall.

**156.25 AWNING AND CANOPY SIGNS.** No advertising sign shall be placed on an awning or canopy except as provided herein. The name of the owner and the business, industry or pursuit conducted within the premises may be painted or otherwise permanently placed in a space not exceeding twelve (12) inches in height on signs suspended beneath a canopy, but no portion

thereof may be lower than seven and one-half (7½) feet above the sidewalk. In addition, the name of the owner and the business, industry or pursuit conducted within the premises may be painted, woven or silk screened onto the canvas of the awning or canopy in a space not exceeding twelve (12) inches in height.

**156.26 NONCONFORMING SIGNS.** Signs in existence on June 8, 1984, when these sign regulations became effective, may continue in existence subject to Sections 156.07, 156.08, 156.10 and 156.11 herein and also subject to the following:

1. A sign shall not be altered structurally or moved unless it be made to comply with the provisions of this chapter, except that the changing of the movable parts of an existing sign that is designed for such changes, or the repainting or reposting of display matter shall not be deemed a structural alteration.
2. The lawful use of a sign existing on the effective date of these regulations, although such sign does not conform to the provisions hereof, may continue; but if such nonconforming use is discontinued for a period of six (6) months, any future use of such sign shall be in conformity with the provisions of this chapter.
3. No sign which has been damaged by fire, wind, explosion or other act of God to the extent that fifty percent (50%) or more of the sign is destroyed, shall be restored except in conformity with the regulations of this chapter. Any sign which has been damaged to an extent of less than fifty percent (50%) may be restored to its condition which existed as a nonconforming use prior to its damage.

**156.27 BOARD OF ADJUSTMENT.** It is recognized that the regulations provided in this chapter cannot sensitively handle all of the sign situations in an area as diverse as that covered by the City. Therefore, the Board of Adjustment and appeal procedures established in the Zoning Regulations shall pertain.

[The next page is 815]



## CHAPTER 160

# FLOOD PLAIN REGULATIONS

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**160.01 PURPOSE.** It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Restrict Use. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. Vulnerable Uses Protected. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

3. “Development” means any manmade 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.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of the flood plain management regulations adopted by the community.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance

Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

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

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

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

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

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

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

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and
- D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.

*(Ord. 815 – Apr. 12 Supp.)*

20. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

21. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the community.

22. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

23. “Recreational vehicle” means a vehicle which is:

- A. Built on a single chassis;

- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
24. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window panes;
  - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
- (Ord. 815 – Apr. 12 Supp.)*
25. "Special flood hazard area" means the land within a community subject to the "100-year flood." This land is identified as Zone A on the community's Flood Insurance Rate Map.
26. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual

start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

28. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

29. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

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

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

30. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

31. “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

**160.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City of Eldora. For the purpose of this chapter, the special

flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Hardin County and Incorporated Areas, City of Eldora, Panels 19083C0190C, 0260C, 0280C, dated June 19, 2012, which is hereby adopted and made a part of this chapter. *(Ord. 815 – Apr. 12 Supp.)*

**160.04 RULES FOR INTERPRETATION OF FLOOD PLAIN (OVERLAY) DISTRICT.** The boundaries of the Flood Plain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.

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

**160.06 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

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

**160.08 WARNING AND DISCLAIMER OF LIABILITY.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain (Overlay) District will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**160.09 FLOOD PLAIN (OVERLAY) DISTRICT STANDARDS.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where floodway data and 100-year flood elevations have not been provided on the Flood Insurance Rate Map,

the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

*(Ord. 815 – Apr. 12 Supp.)*

1. All development within the Flood Plain (Overlay) District shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.



4. All new and substantially improved structures:
- A. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all openings shall be no higher than one foot above grade.
  - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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

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

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

5. Factory-built homes:
- A. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
- B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.
  - A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
  - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
  - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources. *(Ord. 815 – Apr. 12 Supp.)*
10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable

performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.

11. Accessory Structures.

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

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one (1) foot above the 100-year flood level.

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

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.

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

**160.10 ADMINISTRATION.** The Zoning Administrator shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the Flood Plain (Overlay) District.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been floodproofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

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

**160.12 APPLICATION FOR PERMIT.** Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

**160.13 ACTION ON APPLICATION.** The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

**160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS.** Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

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

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

**160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Board of Adjustment shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

**160.17 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed in Section 160.16, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

#### **160.18 NONCONFORMING USES.**

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

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

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

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

**160.19 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

**160.20 STATUTORY AUTHORITY.** The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.  
*(Ord. 815 – Apr. 12 Supp.)*



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

*(Ord. 815 – Apr. 12 Supp.)*

**160.22 PENALTIES FOR VIOLATION.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Eldora from taking such other lawful action as is necessary to prevent or remedy violation.

*(Ord. 815 – Apr. 12 Supp.)*

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## CHAPTER 165

### ZONING REGULATIONS

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**165.01 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 and regulations or ordinances, the provisions of this chapter shall control.

**165.02 DEFINITIONS.** For the purpose of this chapter, the following terms are defined. As used herein, the words “used” or “occupied” include the words “intended, assigned, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel.”

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. “Alley” means a public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.
3. “Apartment” means a room or suite of rooms in a multiple dwelling intended or designed for use as a residence by a single family.
4. “Basement” means a story having part but not more than one-half (½) its height below grade. A basement is counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five (5) feet.
5. “Board” means the Board of Adjustment of the City.
6. “Boarding house” means a building other than a hotel, where for compensation, meals and lodging are provided for four (4) or more persons.

7. “Building” means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.
8. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs. On a corner lot, the height is the mean vertical distance from the average natural grade at the building line from the higher of the two (2) grades.
9. “Bulk stations” means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.
10. “Cellar” means that portion of a building having more than one-half (½) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
11. “Communication tower” means a tower, pole or any other structure which supports a telecommunications antenna or dish above ground in a fixed location, guyed or on a building. Communication towers shall include, but not be limited to monopole, lattice or any other structures designed, intended or used to support wires, antennas, dishes, lights, electronics, microwave, radio, television, line of sight relay devices or similar devices or technology, regardless of whether or not such devices are used for transmission or reception of signals or data.  
(Ord. 810 – Apr. 12 Supp.)
12. “Communication tower height” means the distance from the base of the communication tower structure to the top of the communication tower structure, including any antenna, dish or attachments thereto.  
(Ord. 810 – Apr. 12 Supp.)
13. “Deck and porch” means an open air structure with no roof or wall immediately adjoining a principal building. May have a banister or railing.
14. “District” means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and promises are uniform.
15. “Dwelling” means any building or portion thereof which is designed or used exclusively for residential purposes and which (i) is affixed to a permanent foundation, (ii) assessed and taxed as real property and (iii) has a minimum living area, length and width of not less than twenty-four (24) feet.

16. “Dwelling, single family” means a dwelling designed for or occupied exclusively for residence purposes by one family.
17. “Dwelling, two family (duplex)” means a dwelling designed for or occupied exclusively by two (2) families with separate housekeeping and cooking facilities for each.
18. “Dwelling, multiple” means a dwelling or portion thereof designed for or occupied by more than two (2) families with separate housekeeping and cooking facilities for each.
19. “Family” means one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that no such family shall contain over five (5) persons not related by blood, adoption or marriage.
20. “Frontage” means all the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
21. “Garage, private” means an accessory building, or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the main building, except that a one or two (2) car capacity garage may be rented for the private vehicles of persons not residents on the premises.
22. “Garage, public” means any building or premises, other than a private garage, used for equipping, refueling, servicing, repairing, hiring, selling or storing motor-driven vehicles.
23. “Grade” means the average elevation of the finished ground at the exterior walls of the main building.
24. “Hotel” means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding house or lodging house.
25. “Junk yard” means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

26. "Living area" means that portion of a dwelling which is completely enclosed, exclusive of garages, carports, atriums, patios, porches, decks, greenhouses or similar structures.
27. "Lodging house" means a building where lodging, only, is provided for compensation for four (4) or more persons.
28. "Lot," for zoning purposes, as covered by this chapter, is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated or private street, and may consist of:
- A. A single lot of record;
  - B. A portion of a lot of record;
  - C. A combination of complete lots of record, of complete lots of record and portions of lots of records, or of portions of lots of record;
  - D. A parcel of land described by metes and bounds; provided that in no case of division shall any residual lot or parcel be created which does not meet the requirements of this Code of Ordinances.
29. "Lot measurement":
- A. "Depth" is the mean horizontal distance between the front and rear lot lines.
  - B. "Width" is considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.
30. "Lot of record" means a lot which is part of a subdivision, the deed of which is 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.
31. "Lot types":
- A. "Corner lot" is a lot located at the intersection of two (2) or more streets.
  - B. "Interior lot" is a lot other than a corner lot with only one frontage on a street.
  - C. "Double frontage lot" is a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two (2) nonintersecting streets may be referred to as "through" lots.

D. “Reversed corner lot” is a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

32. “Mobile home” means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which is, has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term “mobile home” includes camp car and house car.

33. “Mobile home park” means any lot or portion of a lot upon which two (2) or more trailers or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

34. “Motel” or “motor lodge” means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached or parking facilities conveniently located to each such unit.

35. “Nonconforming use” means use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

36. “Nursing or convalescent home” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane and other mental cases, inebriate or contagious cases.

37. “Parking space” means a permanently surfaced area of not less than two hundred fifty (250) square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

38. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

39. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half story containing independent apartments or living quarters is counted as a full story.

40. “Street” means a public or private thoroughfare which affords the principal means of access to abutting property.

41. "Street line" means a dividing line between a lot, tract or parcel of land and a contiguous street.
42. "Structural alterations" means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.
43. "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, billboards and poster panels.
44. "Tourist home" means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.
45. "Yard" means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward exception as otherwise provided herein. 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. Fences and walls are permitted in any rear and side yard, subject to height limitations an indicated herein.  
(*Subsection 45 – Ord. 850 – Oct. 18 Supp.*)
46. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches, or the narrow frontage on a corner lot.
47. "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 corner lots, the rear yard shall be considered as adjoining the street upon which the lot has its greater dimension. On both corner lots and interior lots the rear yard is at the opposite end of the lot from the front yard.
48. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building.

**165.03 ESTABLISHMENT OF DISTRICTS; ZONING MAP.** For the purpose of this chapter, the following seven (7) classes of districts are hereby established within the City as shown on the Official Zoning Map which, together with any explanatory matter thereon, is hereby adopted by reference and declared to be a part a this chapter.



- R-1 Single Family Residence District
- R-2 One and Two Family Residence District
- R-3 Multi-Family Residence District
- C-1 Commercial District
- C-2 Commercial District
- M-1 Light Industrial District
- M-2 Heavy Industrial District

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk under the following words: *This is to certify that this is the Official Zoning Map referred to in the Code of Ordinances of the City of Eldora, Iowa, adopted \_\_\_\_\_*. If, in accordance with the provisions of this chapter and Chapter 414 of Code of Iowa, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the Council. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, together with amending ordinances, shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the City. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk, under the following words: *This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Code of Ordinances of the City of Eldora, Iowa.*

*(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

**165.04 INTERPRETATION OF DISTRICT BOUNDARIES.** In the cases where the exact location of a district boundary is not clear as shown on the Official Zoning Map, the following rules shall be used in determining the location of said district boundary:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.

**165.05 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure or land shall hereafter be used and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
  - A. To exceed the height,
  - B. To accommodate or house a greater number of families,
  - C. To occupy a greater percentage of lot area, or

D. To have narrower or smaller rear yards, front yards, side yards or other open spaces;

than herein required; or in any other manner contrary to the provisions of this chapter.

3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

4. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

#### **165.06 NONCONFORMING USES.**

1. Intent. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this chapter should be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

2. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary

accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district.

3. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

C. If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

4. Nonconforming Use of Structures. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use of the same or of a more restricted classification.

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two (2) years, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

E. Where nonconforming use status applies to a structure and premises in combination, removal of the structure shall eliminate the nonconforming status of the land. Any nonconforming building or structure damaged more than sixty percent (60%) of its then fair market value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or Act of God, shall not be restored or reconstructed and used as before such happening; but if less than sixty percent (60%) damaged above the foundation, it may be restored, reconstructed or used as before, provided that reconstruction shall be started within six (6) months of such happening, and be built of like or similar materials.

5. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

6. Uses Under "Special Uses." Any use for which a special exception is permitted as provided in Section 165.15 of this chapter, shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

7. Registration of Nonconforming Uses. See Section 165.22(3).

#### **165.07 GENERAL REGULATIONS.**

1. Visibility at Intersections in Residential Districts. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and line joining points along said street lines twenty five (25) feet from the point of intersection of right-of-way lines.

2. Fences, Walls and Hedges. Notwithstanding other provisions of this chapter, fences, walls and hedges shall be permitted in any rear or side yard starting at twenty-five (25) feet from the front property line, provided, that no fence, wall or hedge along the side or rear of any yard shall be over six (6) feet in height. *(Ord. 850 – Oct. 18 Supp.)*

3. Street Frontage Required. No lots shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty (40) feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way at least twenty (20) feet wide to a street, and there shall be not more than one single-family dwelling for such frontage or easement.

4. Accessory Buildings. Accessory buildings shall be erected in side or rear yards only. Accessory buildings shall be a distance of at least five (5) feet from rear lot lines and two (2) feet from side lot lines and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building, or may be connected thereto by a breeze-way or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not part of the main building shall not occupy more than thirty percent (30%) of the rear yard and shall not be taller than the height of the house, but not to exceed eighteen (18) feet; however, this regulation shall not be interpreted to prohibit the construction of a four hundred forty (440) square foot garage on a minimum rear yard. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used. *(Ord. 774 – Oct. 07 Supp.)*

5. Corner Lots. For corner lots, platted after the effective date of this chapter, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. On corner lots platted and of record at the time of the effective date of this chapter, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersection street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty percent (50%) of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear, provided further that this regulation shall not be interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by

existing contract of purchase at the time of the effective date of this chapter, to less than twenty eight (28) feet or to prohibit the erection of an accessory building.

6. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Planning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

7. Front Yard; Exceptions. In areas where some lots are developed with a front yard that is less than the minimum required for the district by this chapter or where some lots have been developed with a front yard greater than required by this chapter, the following rule shall apply. Any new building or addition in front thereof shall not be closer to the street right-of-way than the average of the front yard of the first building on each side within a distance of two hundred (200) feet measured from building to building, except as follows:

A. Buildings located entirely on the rear half of a lot shall not be counted.

B. No building shall be required to have a front yard greater than fifty (50) feet.

C. If no building exists on one side of a lot within two hundred (200) feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

8. Decks and Porches. Decks and porches shall be distant at least five (5) feet from rear and front lot lines and two (2) feet from side lot lines. Decks and porches may be placed in any rear, side or front yard.

**165.08 R-1 SINGLE FAMILY RESIDENCE DISTRICT REGULATIONS.**

In R-1 Districts the following regulations shall apply, except as otherwise provided herein:

1. Uses Permitted.
  - A. Single-family dwellings.
  - B. Churches and accessory buildings.
  - C. Museums, libraries, parks, playgrounds, community centers and similar uses operated by the City.
  - D. Golf courses, country clubs, tennis courts and similar recreational uses, provided that any such use not be operated primarily for commercial gain.
  - E. Crop and tree farming; truck gardening
  - F. Plant nurseries and greenhouses for propagating and cultivating of plants only and not involving retail sales on the premises.
  - G. Private swimming pools when enclosed with a non-climbable fence at least six (6) feet in height.
  - H. Public and private schools and colleges for academic instruction.
  - I. Nursery schools, child nurseries.
  - J. See Section 165.15(5) for Special Uses.
2. Accessory Uses:
  - A. Private garage which may include living quarters of domestic servants employed on the premises. Servants' quarters shall not be restricted to the twelve-foot minimum height regulations.
  - B. Customary home occupations shall be permitted as an accessory use; provided that such occupations:
    - (1) Are clearly incidental and secondary to the use of the dwelling unit for residential purposes;
    - (2) Are conducted solely by a resident occupant residing in the dwelling unit for residential purposes and not more than one employee;
    - (3) Are limited to the use of one-half (½) or less of the area of one floor;



- (4) Do not require external or internal alterations or the use of mechanical equipment not customary in dwellings;
- (5) Are carried on wholly within the principal building or within a building or other structure accessory thereto;
- (6) Do not have an exterior display, exterior storage of materials, or other exterior indication of the home occupation or variation from the residential character of the principal building;
- (7) Do not produce noise, vibration, smoke, dust, odors, heat, glare, electrical disturbance nor any other disturbance detrimental to the residential character of the zoning district in which it is located;
- (8) Are allowed only one non-illuminated sign, flat against the building, limited to two (2) square feet in area; and

Home occupations shall not be construed to include, nor shall this section be construed to restrict, garage sales of up to three (3) days in length occurring not more than twice in a 12-month period; or home or estate auction sales.

- 3. Building Height Limit: Two and one-half (2½) stories, but not exceeding thirty-five (35) feet in height and no accessory structure shall exceed one story or twelve (12) feet in height.
- 4. Minimum Lot Area: Eleven thousand (11,000) square feet for each dwelling together with its accessory buildings; however, where public sewer and water facilities are not available, not less than twenty thousand (20,000) square feet. If public water only is available, not less than eleven thousand (11,000) square feet.
- 5. Minimum Lot Width: Eighty (80) feet. Where public sewer and water facilities are not available, one hundred (100) feet. If public water only is available, eighty (80) feet.
- 6. Minimum Front Yard Depth: Thirty-five (35) feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
- 7. Minimum Side Yard Width: Eight (8) feet on one side with a total of the two (2) side yards of eighteen (18) feet for a dwelling and fifteen (15) feet on each side for any other principal building. On lots of record at the time of adoption or amendment of this chapter having a

width of less than seventy (70) feet, the side yards may be reduced as follows, for a single-family dwelling only:

- A. One side yard may be reduced to not less than ten percent (10%) of the lot width.
  - B. The sum of both side yards may be reduced to not less than twenty-five percent (25%) of the lot width.
  - C. On corner lots, only the interior side yard may be reduced below eight (8) feet.
- 8. Minimum Rear Yard Depth: Thirty-five (35) feet for a dwelling and forty-five (45) feet for any other building.
  - 9. Exceptions: See Section 165.15 of this chapter.
  - 10. Off-Street Parking: See Section 165.16 of this chapter.
  - 11. Minimum Living Space:
    - A. No person shall allow or permit any building or portion thereof to be used as a dwelling unit unless said building or portion thereof shall have at least two hundred fifty (250) square feet of living space for one individual, plus one hundred fifty (150) additional square feet for each additional resident.
    - B. A “dwelling unit” is defined as one or more rooms owned or lawfully occupied by one or more persons as their home or residence for living or sleeping purposes.
    - C. The amount of square footage required herein shall include the total square footage within the exterior walls of the dwelling unit and shall not include outdoor or screened porches, patios, attached or detached garages, or storage sheds.

**165.09 R-2 ONE AND TWO FAMILY RESIDENCE DISTRICT REGULATIONS.** In R-2 Districts, the following regulations shall apply, except as otherwise provided herein:

1. Uses Permitted:
  - A. Uses permitted in R-1 Districts.
  - B. Two-family dwellings.
  - C. Alterations and conversions of single-family dwellings into two-family dwellings in accordance with the lot area, frontage and yard requirements as set forth in this section.
  - D. See subsection 165.15(5) of this chapter for special uses
  - E. Pasturing of cattle. **(Deleted Effective March 1, 2007 – Ord. 769 – Feb. 07 Supp.)**
2. Accessory Uses: Accessory uses as permitted and regulated in the R-1 District.
3. Building Height Limit: Same as in R-1 District.
4. Minimum Lot Area: Eight thousand (8,000) square feet for each single-family dwelling and nine thousand (9,000) square feet for each two-family dwelling; however, where public sewer and water facilities are not available, not less than twenty thousand (20,000) square feet. If public water only is available, not less than ten thousand (10,000) square feet.
5. Minimum Lot Width: Sixty-four (64) feet for a single-family dwelling and seventy (70) feet for a two-family dwelling. Where public sewer and water facilities are not available, one hundred (100) feet. If public water only is available, eighty (80) feet. The minimum width for corner lots platted after the effective date of this chapter shall be seventy-five (75) feet.
6. Minimum Front Yard Depth: Thirty (30) feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
7. Minimum Side Yard Width: Seven (7) feet on one side with a total of the two (2) side yards of fifteen (15) feet for a single-family dwelling and eight (8) feet on one side with a total of the two (2) side yards of seventeen (17) feet for a two-family dwelling, and fifteen (15) feet on each side for any other principal building. On lots of record at the time of adoption or amendment of this chapter having a width less

than sixty (60) feet, the side yards may be reduced as follows, for a single-family dwelling only:

- A. One side yard may be reduced to not less than ten percent (10%) of the lot width.
  - B. The sum of both side yards may be reduced to not less than twenty-five percent (25%) of the lot width.
  - C. On corner lots, only the interior side yard may be reduced below eight (8) feet.
- 8. Minimum Rear Yard Depth: Thirty-five (35) feet for a dwelling and forty-five (45) feet for any other building.
  - 9. Exceptions: See Section 165.15 of this chapter.
  - 10. Off-Street Parking: See Section 165.16 of this chapter.
  - 11. Minimum Living Space:
    - A. No person shall allow or permit any building or portion thereof to be used as a dwelling unit unless said building or portion thereof shall have at least two hundred fifty (250) square feet of living space for one individual, plus one hundred fifty (150) additional square feet for each additional resident.
    - B. A “dwelling unit” is defined as one or more rooms owned or lawfully occupied by one or more persons as their home or residence for living or sleeping purposes.
    - C. The amount of square footage required herein shall include the total square footage within the exterior walls of the dwelling unit and shall not include outdoor or screened porches, patios, attached or detached garages, or storage sheds.

**165.10 R-3 MULTI-FAMILY RESIDENCE DISTRICT REGULATIONS.**

In R-3 Districts the following regulations shall apply, except as otherwise provided herein.

1. Uses Permitted.
  - A. Uses permitted in R-2 Districts.
  - B. Multiple dwellings.
  - C. Boarding and lodging houses, tourist homes.
  - D. Office of a dentist or physician.
  - E. Hospitals, clinics, nursing and convalescent homes, excepting animal hospitals and clinics.
  - F. Institutions of a religious, education or philanthropic nature.
  - G. See Section 165.15(5) for special uses.
2. Accessory Uses.
  - A. Accessory uses as permitted and regulated in the R-2 District.
  - B. Storage garages, where the lot is occupied by multiple dwelling, hospital or institutional building.
  - C. Beauty parlor and barber shop when conducted as a home occupation solely by resident occupants in their place of abode and provided that not more than one-quarter ( $\frac{1}{4}$ ) of the area of one floor shall be used for such purpose.
3. Building Height Limit. Three (3) stories, but not exceeding forty-five (45) feet in height. Greater height shall be permitted provided that for each two (2) feet of building height over forty-five (45) feet one additional foot shall be added to each of the minimum yard widths specified in this section.
4. Minimum Lot Area.
  - A. Single family dwelling: seven thousand two hundred (7,200) square feet,
  - B. Two family dwelling: eight thousand (8,000) square feet.
  - C. All other principal permitted uses: nine thousand five hundred (9,500) square feet, plus an additional two thousand (2,000) square feet for each unit over four (4) in the case of multiple dwellings. (See also subsection 9 below.)

5. Minimum Lot Width.
  - A. Single family dwelling: sixty (60) feet;
  - B. Two family dwelling: sixty-four (64) feet;
  - C. All other principal permitted uses: seventy-five (75) feet  
(See also subsection 9 below.)
6. Minimum Front Yard Depth. Thirty (30) feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
7. Minimum Side Yard Width (Each Side).
  - A. Single family dwelling: seven (7) feet;
  - B. Two family dwelling: eight (8) feet;
  - C. Multi family dwelling: ten (10) feet.

On lots of record at the time of adoption or amendment of this chapter having a width less than sixty (60) feet, one side yard for a single family dwelling only may be reduced to not less than five (5) feet. On a corner lot, only the interior side yard may be so reduced.
8. Minimum Rear Yard Depth: thirty-five (35) feet.
9. Lots Not Served by Sewer and Water.
  - A. Single family and two family dwellings: Where neither public sewer nor public water is available, twenty thousand (20,000) square feet lot area and one hundred (100) feet lot width. Where public water only is available, ten thousand (10,000) square feet lot area and eighty (80) feet lot width.
  - B. All other principal permitted uses: Where public sewer is not available, special consideration shall be given to determine lot area and width requirements on the basis of soil percolation tests.
10. Exceptions. See Section 165.15.
11. Off-Street Parking. See Section 165.16.

**165.11 C-1 COMMERCIAL DISTRICT REGULATIONS.** In C-1 Districts the following regulations shall apply, except as otherwise provided herein.

1. Uses Permitted.
  - A. Uses permitted in R-3 Districts.
  - B. Any local retail business or service establishment such as the following:
    - Animal hospital, veterinary clinic or kennel.
    - Antique shop.
    - Automobile body and fender repair shop.
    - Baby store.
    - Bakery whose products are sold only at retail and only on the premises.
    - Barber shop or beauty parlor.
    - Bowling alleys.
    - Candy shops whose products are sold only at retail and only on the premises.
    - Clothes cleaning and laundry pickup.
    - Collection office of public utility.
    - Dairy store - retail.
    - Dance and/or music studio.
    - Lumber yards.
    - Drive-in eating and drinking establishments.
    - Drug store.
    - Filling station.
    - Florist shop.
    - Fruit and vegetable market.
    - Funeral homes.
    - Furniture store.
    - Garages, public.
    - Golf driving range and miniature golf course.
    - Gift shop.
    - Grocery and delicatessen.
    - Hardware store.
    - Hobby shop.
    - Hotel, motel or motor lodge.
    - Household appliances - sales and repair.
    - Ice storage and distributing station of not more than five (5) ton capacity.
    - Jewelry shop.
    - Launderette and similar businesses.
    - Paint and wallpaper store.
    - Post office substation.

Radio and television - sales and repair.  
Real estate office.  
Restaurant, cafe and soda fountain.  
Shoe repair shop.  
Sporting goods.  
Tailor shop.  
Variety store.

C. Business or professional office and the like, supplying commodities or performing services.

D. See Section 165.15(5) for special uses.

E. Any retail or wholesale business or service business permitted in C-2 Commercial Districts shall be permitted in C-1 Districts.

2. Building Height Limit. Two and one-half (2½) stories, but not exceeding thirty-five (35) feet in height.

3. Minimum Lot Area. For a dwelling and any building containing any dwelling units, same as in R-3 District. No requirement for any other building.

4. Minimum Lot Width. For a dwelling and any building containing any dwelling units, same as in R-3 District. No requirement for any other building.

5. Minimum Front Yard Depth. Twenty-five (25) feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.

6. Minimum Side Yard Width. None required except as follows:

A. Side yards shall be required for a dwelling and any building containing any dwelling units as required in the R-3 District.

B. A side yard shall be required on that side of a lot which adjoins any R-1, R-2 or R-3 District which shall be no less than five (5) feet.

7. Minimum Rear Yard Depth. Thirty-five (35) feet. For each foot that the front yard is increased over twenty-five (25) feet, the rear yard may be decreased proportionately, except that where the rear yard adjoins the side lot line of a lot in an 'R' District, there shall be a minimum rear yard of five (5) feet required adjacent to said lot line.

8. Exceptions. See Section 165.15.



9. Off-Street Parking and Loading. See Section 165.16.

**165.12 C-2 COMMERCIAL DISTRICT REGULATIONS.** This District is intended only as the Central Business District and no property shall be zoned C-2 Commercial unless it lies adjacent to property zoned C-2 Commercial as a part of the Central Business District. Off-street parking and loading facilities and building setbacks are not required in this district to provide for intensive development of the land. Off-street parking facilities should be provided by the City or by private enterprise as a business. In the C-2 District, the following uses and regulations shall apply, except as may be provided in other sections of this Chapter:

1. Principal Permitted Uses:
  - A. Any use permitted in the C-1 Commercial District unless such use is specifically excluded by this section.
  - B. Any retail or wholesale business and service business including the following uses:
    - Automobile body and fender repair shop.
    - Bakeries.
    - Ballrooms and dance halls.
    - Bicycle and motorcycle shop - sales and repair.
    - Billboards - off-site signs.
    - Billiard parlors and pool halls.
    - Bookbinding.
    - Candy or confections manufacturing.
    - Clothes dry cleaning.
    - Commercial parking lots.
    - Electric substations.
    - Household equipment repair shops.
    - Laundry.
    - Lawn mower repair shop.
    - Office building.
    - Plumbing shop.
    - Monument sales and engraving.
    - Automobile, truck, farm machinery and mobile home sales and repair.
    - Packaging of candy, confections and/or frozen foods.
    - Printing and/or publishing business.
    - Repair and storage garages.
    - Sheet metal shop.
    - Sign painting shop.
    - Taverns with class "R" permits.
    - Tire repair shops.
  - C. See Section 165.15(5) for special uses.

D. Any local retail business or service establishment permitted in C-1 Commercial Districts shall be permitted in C-2 Districts.

2. Accessory Uses.

A. Awnings or canopies may be installed on the sidewalks in front of business establishments provided that the owner secures a permit from the Council prior to the installation of the same, and that said awnings or canopies are not placed closer than twenty-four (24) inches from the rear of the curb line and not lower than seven (7) feet, six (6) inches above the sidewalk except where the awning or canopy extends two (2) feet or less from the building, in which case the minimum clearance shall be seven (7) feet. The owner of the premises on which the awnings or canopies are installed shall maintain the same in good condition and in the event they fail to do so the City may have the same removed and tax the costs of removal to the property owner.

B. An application shall be made to the Clerk on the form provided by the City, and no canopy shall be erected prior to approval of the same by the Council. A fee of ten dollars (\$10.00) shall accompany each application for a permit.

3. Building Height Limit: Four (4) stories but not exceeding sixty (60) feet.

4. Minimum Lot Area: For a dwelling and any building containing any dwelling units: same as in R-3 District. No requirement for any other building.

5. Minimum Lot Width: For a dwelling and any building containing any dwelling units: same as in R-3 District. No requirement for any other building.

6. Minimum Front Yard Depth:

A. Dwellings - same as R-3 District.

B. Other permitted uses, none required.

When fronting on the proposed right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.

7. Minimum Side Yard Width:

A. Dwellings - same as R-3 District.

B. Other uses - none required except adjacent to an "R" District, in which case, not less than fifteen (15) feet.

8. Minimum Rear Yard Depth:
  - A. Dwellings - same as R-3 District.
  - B. Other permitted uses, none required except when the rear lot line is immediately adjacent to the side lot line of a lot in an "R" District, in which case not less than fifteen (15) feet.
9. Exceptions: See Section 165.15.
10. Off-Street Parking and Loading: See Section 165.16.
11. Restricted Residential Use: As to the following properties within the C-2 District, street level residential use of such properties shall be prohibited:
  - Lots 1, 4, 5, 6, 7 & 8 of Block 7;
  - Lots 2, 3, 4, 5, 6 & 7 of Block 8;
  - Lots 3, 4, 5, & 6 of Block 9;
  - Lots 3, 4, 5, & 6 of Block 12;
  - Lots 3 & 4 of Block 18;
  - Lots 1, 2, 3 & 4 of Block 17;
  - Lots 1, 2, 3 & 8 of Block 16; and
  - Lots 1, 2, 3, 4, 5, 6, 7 & 8 of Block 13,
  - All in Original Town, Eldora, Iowa.

**165.13 M-1 LIGHT INDUSTRIAL DISTRICT REGULATIONS.** In the M-1 District, the following regulations shall apply, except as otherwise provided herein:

1. Principal Permitted Uses:

A. Uses permitted in C-2 Districts provided that no dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

B. Any of the following uses:

Automobile assembly and major repair.

Creamery, bottling, ice manufacturing and cold storage plant.

Manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.

Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone or cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.

Manufacture of musical instruments, novelties and molded rubber products.

Manufacture or assembly of electrical appliances, instruments and devices.

Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

Laboratories - experimental, film or testing.

Manufacture and repair of electric signs, advertising structures, light sheet metal shop, excluding drop hammers and the like.

Blacksmith, welding or other metal shop, excluding drop hammers and the like.

Foundry casting light weight nonferrous metals, or electric foundry not causing noxious fumes or odors.

Bag, carpet and rug cleaning; provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.

Enameling, lacquering or japanning.

Crematory - if located not less than two hundred (200) feet from any "R" District.

Concrete mixing, concrete products manufacture.  
 Sawmill, planing mill; including manufacture of wood products not involving chemical treatment.  
 Building material sales yards, lumber yard, contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors, storage and sale of livestock, feed and/or fuel, provided dust is effectively controlled, and storage yards for vehicles of a delivery or draying service.  
 Circus, carnival or similar transient enterprise; provided such structures or buildings shall be at least two hundred (200) feet from any "R" District.  
 Inflammable liquids, underground storage only.  
 Printing and/or publishing house.  
 Truck terminal or yard including repair.  
 Storage warehouse.  
 The keeping of livestock including pigs, swine, hogs, sheep, lambs, chickens, turkeys, cattle, buffalo, llamas, deer, goats, emus, ducks, geese, peacocks and snakes.

C. See Section 165.15(5) for special uses.

2. Accessory Uses.

A. Any accessory use permitted in the C-2 Commercial District.

B. Any accessory uses customarily accessory and incidental to a permitted principal use.

3. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, vibrations, refuse matter or water-carried waste.

4. Building Height Limit: three (3) stories but not exceeding fifty (50) feet. Communication towers subject to Section 165.28 may be erected to a height higher than fifty (50) feet, but not more than three hundred (300) feet or the height authorized under an applicable airport height zoning ordinance, after approval by the Board of Adjustment in accordance with Section 165.28. *(Ord. 810 – Apr. 12 Supp.)*

5. Minimum Lot Area: No minimum.

6. Minimum Lot Width: No minimum.
7. Minimum Front Yard Depth: thirty (30) feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
8. Minimum Side Yard: None required except adjacent to an 'R' District in which case not less than twenty-five (25) feet.
9. Minimum Rear Yard Depth: Ten (10) feet unless the rear lot line adjoins a railroad right-of-way, in which case none required.
10. Exceptions. See Section 165.15.
11. Off-Street Parking and Loading: See Section 165.16.

**165.14 M-2 HEAVY INDUSTRIAL DISTRICT REGULATIONS.** In the M-2 District the following regulations shall apply, except as otherwise provided herein:

1. Principal Permitted Uses.

A. Uses permitted in M-1 Districts, provided that no dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

B. Any other use not otherwise prohibited by law, provided, however, that the following uses shall be permitted subject to approval by the Council after public hearing, and after report and recommendation by the Zoning Commission. The Council shall consider all of the following provisions in its determination upon the particular use at the location requested:

- (1) That the proposed location design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
- (2) That such use shall not impair an adequate supply of light and air to surrounding property;
- (3) That such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
- (4) That such use shall not diminish or impair established property values in adjoining or surrounding property; and
- (5) That such use shall be in accord with the intent, purpose and spirit of this chapter and the Comprehensive Plan of the City.

The uses subject to the above provisions are as follows:

Acid manufacture.  
Cement, lime, gypsum or plaster of paris manufacture.  
Distillation of bones, coal tar, petroleum, refuse, grain or wood.  
Dump.  
Drilling for or removal of oil, gas or other hydrocarbon substance.  
Explosives manufacture or storage.  
Fat rendering.



Fertilizer manufacture.  
Garbage; offal or dead animal or fish reduction or dumping.  
Gas manufacture.  
Glue manufacture.  
Hog ranch.  
Mineral extraction, including sand and gravel.  
Petroleum or petroleum products refining.  
Rubber goods manufacture.  
Salvage yards, including auto wrecking and salvage, used parts sales and junk, iron or rags storage or baling. No portion of the front yard is to be used for the conduct of business in any manner whatsoever except for parking of customer or employee vehicles. Any premises on which such activities are carried on shall be wholly enclosed within a building or by a wooden, metal or masonry fence or wall not less than six (6) feet in height and in which any openings or cracks are less than fifteen percent (15%) of the total area.  
Smelting of ores.  
Stockyard or slaughter of animals, except poultry or rabbits.  
Tannery.  
Any other use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or may impose hazard to health or property.

C. See Section 165.15(5) for special uses.

2. Required Conditions.

A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.

B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least one hundred (100) feet from any "R" District boundary, except where adjoining a railroad right-of-way.

3. Building Height Limit: three (3) stories but not exceeding fifty (50) feet. Communication towers subject to Section 165.28 may be erected to a height higher than fifty (50) feet, but not more than three hundred (300) feet or the height authorized under an applicable airport height zoning ordinance, after approval by the Board of Adjustment in accordance with Section 165.28. *(Ord. 810 – Apr. 12 Supp.)*

4. Minimum Lot Area: No minimum.

5. Minimum Lot Width: No minimum.

6. Minimum Front Yard Depth: Thirty (30) feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
7. Minimum Side Yard: None required except adjacent to an R District, in which case not less than one hundred (100) feet as specified in subsection 2 of this section.
8. Minimum Rear Yard Depth: Ten (10) feet unless the rear lot line adjoins a railroad right of way, in which case none required.
9. Exceptions: See Section 165.15.
10. Off-Street Parking and Loading: See Section 165.16.

**165.15 EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS.**

1. Structures Permitted Above Height Limit. The building height limitations of this chapter shall be modified as follows:
  - A. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, radio or television towers, or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City.
  - B. Public, semi-public or public service buildings, hospitals, sanatoriums, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches and temples, when permitted in a district, may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each property line one (1) foot in addition to the minimum yard requirements for each two (2) feet of building height above the height limit otherwise provided in the district in which the building is constructed.
2. Double Frontage Lots. Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.
3. Rear Yards Adjacent To Alleys; How Computed. In computing the depth of a rear yard where the rear yard adjoins an alley, one-half (½) of the alley width may be included as a portion of the rear yard.
4. Other Exceptions To Yard Requirement. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for ordinary projections not to exceed twenty-four (24) inches including roof overhang.
5. Special Uses.
  - A. Special Permit. The Board of Adjustment may by special permit after public hearing authorize the location of any of the following buildings or uses in any district from which they are prohibited by this chapter. Notice of time and place of hearing upon an application for a special use permit shall be given not less than seven (7) or more than twenty (20) days before such hearing in one of the Eldora newspapers, by one publication.

- (1) Any public building erected and used by any department of the City, Township, County, State or Federal government.
- (2) Airport or landing field,
- (3) Community building or recreation center.
- (4) Hospitals, homes for the aged, nursing homes, nonprofit fraternal institutions provided they are used solely for fraternal purposes and institutions of an educational, religious, philanthropic or eleemosynary character, provided that the building shall be set back from all yard lines a distance of not less than two (2) feet for each foot of building height but not less than the yard requirement for the district in which located.
- (5) Mobile home parks, subject to the following minimum development requirements:

<b>Requirements For Park</b>	
Drives	25 feet in width surfaced with asphalt or Portland cement concrete
Front yard (to be measured from all streets on which park abuts)	35 feet
Minimum area	2 acres
Rear yard	35 feet
Sanitary facilities	Connection with the municipal sewer system or adequate private sewage disposal facilities
Side yard	35 feet

<b>Requirements For Mobile Home Spaces</b>	
Minimum front yard	15 feet
Minimum rear yard	10 feet
Minimum side yard	5 feet
Minimum space area	3,000 square feet
Minimum space size	40 feet by 75 feet
Off-drive parking	1 parking space for each home space

- (6) Pre-schools.
- (7) Cemetery.
- (8) Blow molding.
- (9) Bottling of products of a noninflammable nature which do not give off noxious fumes.
- (10) Storage warehousing.
- (11) Cutting, assembling, upholstering and finishing of wood and metal furniture.
- (12) Office buildings.
- (13) Automobile racing.
- (14) Flea markets, dinners, civic meetings, social or charitable fund raisers, business meetings, product shows, and recreational events.
- (15) Light assembly of electronic components.
- (16) Wind turbine towers for the purpose of generating electricity. *(Ord. 731 – Feb. 02 Supp.)*
- (17) Pasturing of equine. *(Ord. 743 – Sep. 03 Supp.)*
- (18) Immigration Housing in an M1 Zoning District—after meeting the guidelines of the State. *(Ord. 751 – Apr. 04 Supp.)*

B. Guidelines. The Board of Adjustment, before granting any special use permit, shall consider how the proposed special use would affect:

- (1) The general welfare of the entire City;
- (2) The character of the neighborhood;
- (3) The general welfare of the persons residing or working in the neighborhood;
- (4) The promotion of the public safety, morals, health, convenience, and comfort;
- (5) The burden upon public streets and utilities; and
- (6) The most appropriate use of the land.

C. Conditions. When the Board of Adjustment grants a special use permit, appropriate conditions, safeguards and limitations shall be prescribed. Violations of conditions, safeguards and limitations shall be deemed violations of this section.

D. Revocation and Modifications. Any interested party may file a written application to revoke or modify a special use permit with the Board of Adjustment. Such applications shall be based

upon a violation of this section. After notice and hearing in accordance with this subsection, the Board of Adjustment may continue, modify, or revoke a special use permit.

#### **165.16 PARKING AND LOADING AREAS.**

1. Off-Street Loading Spaces Required. In any C-1 or M District, in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one off-street loading space plus one additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of ten thousand (10,000) square feet.

A. Each loading space shall be not less than ten (10) feet in width and thirty-five (35) feet in length.

B. Such space may occupy all or any part of any required yard or court space.

2. Off-Street Parking Area Required. In all districts, except the C-2 District, in connection with every industrial, commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule:

A. Automobile sales and service garages, fifty percent (50%) of floor area.

B. Banks, business and professional offices, fifty percent (50%) of floor area.

C. Bowling alleys, five (5) spaces for each alley.

D. Churches and schools, one space for each eight (8) seats in a principal auditorium. When no auditorium is involved, one space for every two (2) employees.

E. Dance halls, assembly halls, two hundred percent (200%) of floor area used for dancing or assembly.

F. Dwelling, one parking space for each family or dwelling unit.

G. Funeral homes, mortuaries, one parking space for each five (5) seats in the principal auditorium.

- H. Furniture and appliance stores, household equipment or furniture repair shops, over one thousand (1,000) square feet of floor area, fifty percent (50%) of floor area.
- I. Hospitals, one space for each four (4) beds.
- J. Hotels, lodging houses, one space for each two (2) bedrooms.
- K. Manufacturing plants, one space for each three (3) employees on the maximum working shift.
- L. Restaurants, beer parlors, and night clubs, over one thousand (1,000) square feet floor area, two hundred percent (200%) of floor area.
- M. Retail stores, supermarkets, etc., over two thousand (2,000) square feet floor area, two hundred fifty percent (250%) of floor area.
- N. Retail stores, shops, etc., under two thousand (2,000) square feet floor area, one hundred percent (100%) of floor area.
- O. Sports arenas, auditoriums, other than in schools, one parking space for each six (6) seats.
- P. Theaters, assembly halls with fixed seats, one parking space for each six (6) seats.
- Q. Wholesale establishments or warehouses, one parking space for every two (2) employees.

In case of any building, structure or premises, the use of which is not specifically mentioned herein, requirements for a use which is so mentioned and to which said use is similar shall apply. Off-street parking areas may be established in any R District that immediately joins a C or M District, or is directly across an alley from a C or M District, provided such parking is accessory to and for use of one or more business or industrial establishments located in the adjoining "C" or "M" district; and provided, however, such transitional use shall not extend more than one hundred (100) feet from the boundary of the less restricted zone. Off-street parking areas shall be surfaced with Portland cement concrete or asphaltic material or shall be dust-proofed in some other manner as may be approved by the Council and shall be maintained in a dust-free condition. Access drives to off-street parking areas in "C" or "M" districts shall be subject to written approval of the Council.

**165.17 OUTDOOR ADVERTISING SIGNS, COMMUNITY UNIT PLAN, ZONING OF ANNEXED AREAS.**

1. Community Unit Plan. The owner or owners of any tract of land comprising an area of not less than twenty (20) acres may submit to the Council a plan for the use and development of the entire tract of land. The development shall be referred to the Planning Commission for study and report and for public hearing. If the Commission approves the development plan, the plan, together with the recommendation of the Commission, shall then be submitted to the Council for consideration and approval. If the Council approves the plan, building permits and Certificates of Zoning Compliance may be issued even though the use of land and the location of the buildings to be erected in the area and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located except as follows:

- A. Only uses permitted in the "R" districts shall be permitted,
- B. The average lot area per family contained in the proposed plan, exclusive of the area occupied by streets, will not be less than the lot area per family required in the district in which the development is located.

2. Zoning of Annexed Areas. Any land annexed to the City after the effective date of this chapter shall be zoned R-1 Residential until the Zoning Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with Section 165.25 of this chapter. Said final zoning plan shall be adopted within six (6) months of date of annexation.

**165.18 PLANNED RESIDENTIAL UNITS (PUD).**

1. Statement of Intent. It is the intent of the City that planned residential development (hereinafter referred to as PUD) be encouraged for areas of the community, as appropriate, in particular those areas of the community now undeveloped. More specifically, it is the intent to:

- A. Promote and permit flexibility that will encourage a more creative and imaginative approach in development and result in a more efficient, aesthetic, desirable and economic use of land, while maintaining uses consistent with the Zoning Plan.
- B. Provide minimal effect upon adjacent properties and existing development. To this end, the Zoning Commission may make appropriate requirements.



C. Promote development that can be conveniently, efficiently and economically served by existing municipal utilities and services or by their logical extension.

D. Promote flexibility in design, placement of buildings and use of open space, pedestrian and vehicular circulation facilities and off-street parking areas in a manner that will best utilize the potential of sites characterized by special features of geography, geology, topography, size or shape.

E. Provide, where it is shown to be in the public interest, for the preservation of historical features and such natural features as streams, drainageways, flood plains, ponds/lakes, topography, rock outcroppings, unique areas of vegetation, stands of trees and other similar natural assets.

F. Provide for more adequate recreational facilities and other public and common facilities than would otherwise be provided under conventional land development.

G. Provide for the enhancement of the natural setting through careful and sensitive placement of manmade facilities and plant materials.

2. Application for PUD Plan Approval. The Zoning Commission shall review the PUD plan and make a recommendation to the Council within sixty (60) days of the filing of the application with the Clerk. Upon written request and approval by the Council, an additional sixty (60) days may be granted to the Zoning Commission for review and recommendation. The application shall include the following written and visual materials:

A. A written statement concerning the proposed development including the nature of the project, proposed land uses, building types, density ranges and description of the open space and recreational system, if any.

B. A site development plan containing the following:

(1) Legal description of the total site being developed, along with the name(s) of the owner(s) and seal of the registered land surveyor making the plat.

(2) Topographical survey of the site at an interval of not more than five (5) feet unless characteristics of the site indicate a greater or shorter interval appears appropriate.

(3) Dimensions and bearings of external property boundaries.

- (4) The location of all existing structures, easements, utilities, proposed utilities and public dedications either contained upon or adjacent to the site.
    - (5) The existing and proposed public and/or private street and sidewalk system.
    - (6) A statement of quantitative data including total number and types of structures to be constructed on the site, individual parcel sizes, lot coverage, gross and net residential densities, areas reserved for open space and recreation and off-street parking areas.
  - C. Site supporting information to include, as appropriate:
    - (1) Any water course areas.
    - (2) Unique natural features.
    - (3) Unique historical sites.
    - (4) General vegetation cover.
    - (5) Soil suitability.
  - D. A landscape plan delineating the proposed treatment of the site. The plan shall be supplemented with a written statement of the intent of the plan and how the intent is to be realized.
  - E. Representative floor plans and exterior elevations of proposed structures and buildings.
3. Changes in Approved Plan. Changes of a minor nature may be authorized in an approved plan by the housing official. However, any proposed change of a major consequence is only authorized by the Council upon recommendation by the Planning and Zoning Commission. Major changes shall include:
- A. Nonconformance to the original approved overall statement of intent.
  - B. Any increase in density numbers and/or types of dwelling units.
  - C. Nonconformance to the original approved overall statement of intent of the landscape plan.
  - D. Any change in maximum height or change in location of structure or buildings.

If any proposed change is questionable whether it is of major or minor consequence, such determination shall be made by the Council. A PUD

plan runs with the land and is binding on any and all interested parties from and after the time a PUD is approved. No permits will be issued that are contrary to the approved PUD plan until the owners of the property have amended the PUD plan, and the amendment has been approved by the Council or the property is rezoned to remove the PUD designation.

4. Design Standards. Even though PUDs promote and permit flexibility of design, certain standards must be applied to assure compatibility of the project with the intent of this chapter. These standards follow:

A. Permitted Uses. Normal permitted uses are those of a residential character including single-family, two-family and/or multiple-family dwellings, churches and the usual accessory buildings, such as garages, storage space, maintenance structures and buildings for recreational purposes.

B. Density. The permitted maximum dwelling unit density per gross acre shall not exceed eight (8) dwellings.

C. Tract Size. The minimum tract size for a PUD is one acre.

D. Height. There shall be no maximum height requirement; however, height shall be regulated to the extent that it relates to the proposed development and to the general area within which the development is proposed to be located.

E. Open Space. A major portion of any PUD is its open space. The desirability is closely tied to the integration of open space with the total development. The statement of intent of this section sets forth the overall objective desired for PUDS. Therefore, no quantitative standards are stated in this subsection. Quality standards acknowledge the separate and multiple functions of open space: active recreation, passive recreation and preservation of natural site amenities. In designing the PUD, consideration shall be given to such functions. All land in the PUD indicated as common land and common open space shall be maintained by one of the following methods:

(1) If the land is deeded to a homeowner's association (HOA), the developer shall file a declaration of covenants and restrictions that will govern the association to be submitted with the application for the PUD. The provisions shall include, but not be limited to:

(a) Membership must be mandatory for each home buyer and any successive buyer.

(b) The open space restrictions must be permanent.

(c) The HOA must be responsible for liability insurance, taxes and the maintenance of recreational and other facilities.

(2) All or any part of the open space system may be conveyed to the City by joint agreement of the developer and the City. Such conveyance may be by dedication or easement.

F. Other Consideration. A number of major factors should undergo evaluation as a portion of design standards. These include:

(1) Natural drainage areas shall be retained as appropriate and, if necessary, improved.

(2) Due consideration shall be given to preserving natural site amenities and minimizing the disturbance to the natural environment.

(3) Existing trees shall be preserved wherever possible. The location of trees is to be considered in designing building locations, underground services and paved areas.

(4) Due consideration shall be given to the natural topography and major grade change shall be avoided. If the development includes hillsides and slopes, special evaluation shall be given to geological conditions, erosion and topsoil loss. If unfavorable development conditions exist, the Council may restrict clearing, cutting, filling and other substantial changes in the natural conditions of the affected area.

#### **165.19 APPROVAL OF PUD PLAN AND DESIGNATION OF AREA.**

Approval of the PUD plan shall be by ordinance designating the land as a PUD area. The Zoning Map shall be amended to show this designation. Thereafter zoning and building permits may be issued in accordance with the approved PUD plan, although the use of the land and the location of the buildings to be erected on the land, the yards and open spaces contemplated by the plan, do not conform in all respects to the underlying district regulations of the basic zoning district in which the land is located. Any variation or departure from the approved plan shall constitute a violation of this chapter. The City shall deny zoning and building permits pertaining to any proposed variation or departure from an approved PUD plan until a revision of the plan has been approved by

ordinance, under the same procedure as is established for approval of an original plan. So long as a location is designated by ordinance as being in PUD area, no zoning or building permit shall be issued for that location except in accordance with an approved PUD plan.

#### **165.20 BOARD OF ADJUSTMENT.**

1. Board Created. A Board of Adjustment is hereby established which shall consist of five (5) members, appointed by the Council for a term of five (5) years.
2. Meetings. Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.
3. Appeals. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within ten (10) days by filing with the administrative officer and with the Board a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official certifies to the Board after notice of appeal shall have been filed with said officer, that by reason of facts stated in the certificate a stay would in the opinion of the administrative officer cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the administrative officer, and on due cause shown.
4. Hearings, Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent, or by attorney.

Before an appeal is filed with the Board, the appellant shall pay a fee of five dollars (\$5.00) to be credited to the General Fund of the City.

5. Powers; Administrative Review. The Board of Adjustment has the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this chapter.

6. Powers; Special Exceptions. The Board of Adjustment has the power to permit the following exceptions to the district regulations set forth herein, subject to the requirements of this section:

A. To permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.

B. To permit the extension of a use into a district where it would be otherwise prohibited, in a case where a district boundary line is so located that a lot or plot is in more than one district.

The Board has the power to hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this chapter, to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

A. A written application for special exception is submitted indicating the section in this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. Notice of public hearing shall be given in advance of public hearing. The owner of the property for which special exception is sought or said owner's agent and any other affected property owners shall be notified by mail. Notice of hearing shall also be posted on the property for which special exception is sought.

C. The public hearing shall be held. Any party may appear in person or by agent or attorney.

D. The Board shall make a finding that it is empowered under the section of these zoning regulations described in the

application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter and punishable under Section 165.27 of this chapter. The Board may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

7. Powers; Variances. The Board has the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of these zoning provisions shall not be granted by the Board unless and until:

A. A written application for a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same district;
- (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the some district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given in advance of public hearing. The owner of the property for which the variance

is sought or said owner's agent and any other affected property owners shall be notified by mail.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board shall make findings that all requirements have been met by the applicant for a variance.

E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of the zoning provisions in said district.

8. Decisions of the Board of Adjustment. In exercising the above-mentioned powers, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of any provisions of this chapter.

9. Appeal From Decision of Board of Adjustment. Any taxpayer, or any officer, department, board or bureau of the City or any person aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the



filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

**165.21 ADMINISTRATION AND ENFORCEMENT.** An administrative official designated by the Council shall administer and enforce this chapter. Said official may be provided with the assistance of such other persons as the Council may direct. If the administrative official shall find that any of the provisions of this chapter are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The administrative official shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

**165.22 CERTIFICATES OF ZONING COMPLIANCE.**

1. Certificates of Zoning Compliance Required. No building or other structures shall be erected, moved, added to, or structurally altered without a certificate therefor, issued by the administrative official. No certificate shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Fees for certificates of zoning compliance shall be as provided by City resolution.
2. Application for Certificates of Zoning Compliance. All applications for certificates shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.
3. Certificates of Zoning Compliance for New, Altered or Nonconforming Uses. It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered

or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the administrative official stating that the proposed use of the building or land conforms to the requirements of this chapter. No nonconforming structure or use shall be maintained, renewed, changed or extended until a certificate of zoning compliance shall have been issued by the administrative official. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter, provided that upon enactment or amendment of this chapter, owners or occupants of nonconforming uses or structures shall have one year to apply for certificates of zoning compliance. Failure to make such application within one year shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this chapter. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit, and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed in conformity with the provisions of this chapter. A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under Section 165.27 of this chapter.

4.     Expiration of Certificates of Zoning Compliance. If the work described in any certificate has not begun within ninety (90) days from the date of issuance thereof, said certificate shall expire; it shall be canceled by the administrative official, and written notice thereof shall be given to the persons affected. If the work described in any certificate has not been substantially completed within two (2) years of the date of issuance thereof, said certificate shall expire and be canceled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

5.     Construction and Use to be as Provided in Applications, Plans, Permits and Certificates of Zoning Compliance. Building permits or Certificates of Zoning Compliance issued on the basis of plans and applications, approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and

applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of this chapter, and punishable as provided by Section 165.27 hereof.

**165.23 DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF ADJUSTMENT, COUNCIL AND COURTS ON MATTERS OF APPEAL.**

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Statute. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the Council shall have only the duties of (i) considering and adopting or rejecting proposed amendments or the repeal of this chapter, as provided by law, (ii) of establishing a schedule of fees and charges, (iii) considering applications for special permits for special uses, and (iv) considering applications for uses listed in the M-2 Heavy Industrial District.

**165.24 SCHEDULE OF FEES.** The Council shall establish a schedule of fees, charges and expenses and a collection procedure for certificates of zoning compliance, appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the Council. No certificate, special exception or variance shall be issued unless or until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

**165.25 AMENDMENTS.**

1. The City may from time to time, on its own action or on petition, after public notice and hearings as provided by law, and after report by the Zoning Commission, amend, supplement or change the boundaries or regulations herein or subsequently established and such amendment shall not become effective except by the favorable vote of a majority of all the members of the Council.
2. Whenever any person desires that any amendment or change be made in this chapter, including the text and/or map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its

boundaries as to which the change or amendment is desired, duly signed by the owners of fifty percent (50%) of the area of all real estate lying outside of said tract but within two hundred (200) feet of the boundaries thereof, and intervening streets and alleys not to be included in computing such two hundred (200) feet, it shall be the duty of the Council to vote upon such petition within ninety (90) days after the filing of such petition with the Clerk.

3. In case the proposed amendment, supplement or change is disapproved by the Zoning Commission, or a protest is presented duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not to exceed two hundred (200) feet therefrom or of those directly opposite thereto, extending the depth of one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least four-fifths (4/5) of all the members of the Council. Whenever any petition for an amendment, supplement or change of the zoning or regulations herein contained or subsequently established shall have been denied by the

Council, then no new petition covering the same property or the same property and additional property shall be filed with or considered by the Council until one year shall have elapsed from the date of the filing of the first petition.

4. Before any action shall be taken as provided herein, the party or parties proposing or recommending a change in the district regulations or district boundaries shall deposit with the Clerk the sum of ten dollars (\$10.00) to cover the approximate cost of this procedure and under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

**165.26 COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof, shall be filed with the administrative official. Such official shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

**165.27 ENFORCEMENT, VIOLATIONS AND PENALTIES.**

1. Enforcement. All departments, officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure or purpose if the same would not conform to the provisions of this chapter.

2. Penalties for Violation. Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**165.28 COMMUNICATION TOWERS.**

1. Purpose. The purpose of this section is to establish general guidelines for the placement of telecommunication dishes, towers, and equipment. The goal of this section is to encourage the location of communication dishes, towers, and equipment in areas of the City which would be least adversely impacted by the visual, aesthetic, and safety implications of their placement; to minimize the total number of communication towers throughout the City; to strongly encourage the

joint use of new and existing tower sites; and to enhance the ability of providers of telecommunication services to provide such services to the community quickly, efficiently, and effectively.

2. General Requirements. All communication towers not exempt from this section are subject to the following requirements:

A. A communication tower may be permitted only in M-1 or M-2 Industrial Districts and only upon approval by the Board of Adjustment after the application and hearing process set forth in this section has been followed.

B. A communication tower must be safe and be constructed so that the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, or radio frequency interference, and the communication tower height must not exceed the lesser of three hundred (300) feet or the height imposed by any applicable airport height zoning ordinance.

C. A communication tower structure shall be no closer to any public right of way or lot line of an adjacent property owner than a distance equivalent to 100% of the communication tower height. The setback distance shall be measured from the street right of way line and from all the lot lines of adjacent property owners to the center of the structure's base.

D. A communication tower structure shall comply at all times with all of the standards requiring proof under Section 165.28(3)(E), 165.28(3)(G)-(H), and 165.28(3)(K)-(M) as well as all State and Federal rules applicable to communication towers.

3. Application to Locate, Replace or Update Communication Towers. All applicants who wish to locate, replace, or update a communications tower of any height not exempt from this Section must deliver the following documents to the City Clerk before a hearing will be held on the application:

A. Payment of an application fee in an amount that may be set by resolution of the City Council.

B. Two copies of typical specifications for proposed communication towers, including description of design characteristics and material.

C. A site plan drawn to scale with a legal description showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings

depicting typical design of proposed structures, parking, fences, landscaping and the existing uses on adjacent properties.

D. A current map showing locations of the applicant's other communication towers serving any area within the City corporate limits.

E. A report from a structural engineer showing the tower and antenna capacity by type and number, and a certification that the tower and antenna are designed to withstand winds in accordance with ANS/EIA/TIA 22, latest revision, standards.

F. Identification of the owners of the real estate, the communication tower, and all other structures or equipment to be located on the site.

G. Written authorization from the owner of the real estate allowing installation of the communication tower.

H. Evidence that a valid FCC license for the proposed activity has been issued or will be issued by the time of the hearing before the Board of Adjustment.

I. A written agreement to remove the communication tower within ninety (90) days after discontinuation of use of the communication tower.

J. A written list of all owners of other communication towers located within one-half mile of the proposed site and documentation of diligent but unsuccessful efforts by the applicant for a minimum of forty (40) days prior to submission of the application to utilize those existing communication towers, or written evidence from a technical engineer that the proposed use and coverage is not possible on those existing towers.

K. A showing that the communication tower is designed to accommodate all of the applicant's present and future requirements.

L. A showing that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

M. A showing of a certificate from a registered engineer that the communication tower will contain only equipment meeting FCC rules.

N. A written indemnification of the City and proof of liability insurance or financial ability to respond to claims up to two million five hundred thousand dollars (\$2,500,000) in aggregate

which may arise from the operation of the communication tower during its life, at no cost to the City, in a form to be approved by the City.

O. A showing that the applicant has given notice in writing of its intent to submit an application under this section to all landowners whose lot lines lie within three hundred (300) feet of the lot lines of the real estate where the communication would shall be built.

4. Board of Adjustment Hearing. Upon submission of an application for a communication tower, the Board of Adjustment shall then follow the same procedures for special use permits under Section 165.15(5) and 165.20(6) before rendering a decision on the application. The Board of Adjustment may either approve or deny the application to allow the communication tower after considering the same guidelines set forth for the issuance of special use permits in conjunction with the minimum requirements of this section. The Board of Adjustment may also approve the application subject to such reasonable conditions it may impose. However, the Board may not deny permission to construct a communication tower based upon health concerns related to radio emissions if the communication tower complies with all Federal and State regulations relating to radio emissions of communication towers. Any taxpayer, officer, department, board or bureau of the City, or any applicant aggrieved by the decision of the Board of Adjustment may appeal that decision by utilizing the remedies of Section 165.20(9).

5. Exemptions. Communication towers located on public property owned and controlled by the City are exempt from this section. Communication towers and operated by Federally licensed amateur radio station operators are exempt from this section, but are not exempt from any other portion of this chapter which would otherwise control their use and placement. Communication towers owned and operated as receive-only apparatus for private use are exempt from this section, but are not exempt from any other portion of this chapter which would otherwise control their use and placement.

6. Preexisting Communication Towers. Any communication tower which has been lawfully permitted to be used and is in existence prior to the effective date of this section shall be exempt from all provisions of this section other than the abandonment rules and the requirements of State and Federal law, unless the communication tower is either replaced or upgraded to a point where its size, dimensions or attachments vary from the conditions which exist or were lawfully permitted at the time this section became effective. If the preexisting communication tower is



to be replaced or upgraded, it shall become subject to all provisions of this section unless it is otherwise exempt.

7. Removal of Abandoned Communication Towers. Any communication tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such communication tower shall remove the same within ninety (90) days of receipt of notice from the City. If said communication tower is not removed within the ninety (90) day period, the City may remove such communication tower at the owner's expense. If there are two (2) or more users on a single communication tower, then this provision shall not become effective until all users cease using the tower.

8. Construction of this Section. A communication tower must also meet all other requirements of this chapter not inconsistent with the requirements of this chapter. If any provision of this chapter expressly contradicts a provision of this section, the provisions of this section shall control.

*(Sec. 165.28 – Ord. 810 – Apr. 12 Supp.)*

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[The next page is 925]

## CHAPTER 166

### SUBDIVISIONS

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**166.01 TITLE.** This chapter shall be know as the Subdivision Ordinance of the City of Eldora, Iowa.

**166.02 PURPOSE.** The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City.

**166.03 DEFINITIONS.** For the purposes of this chapter, the following words are defined.

1. “Alley” means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
2. “Block” means an area of land within a subdivision that is entirely bounded by streets, railroad rights of way, rivers, tracts of public land, or the boundary of the subdivision.
3. “Building line” means a line on a plat between which line and a street, alley, or private place no building or structure may be erected.
4. “City Engineer” means a professional engineer registered in the State of Iowa designated as City Engineer by the Council.

5. "Commission" means the Planning and Zoning Commission of the City.
6. "Comprehensive Plan" means the general plan for the development of the community, which may be titled Master Plan, Comprehensive Plan or some other title, which plan has been adopted by the Council. Such Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
7. "Cul-de-sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turnaround.
8. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.
9. "Final plat" means the map or plan of record of a subdivision and any accompanying material, as described in this chapter.
10. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, storm sewers, sanitary sewers, drainageways, and other public works and appurtenances.
11. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
12. "Lot, corner" means a lot situated at the intersection of two (2) streets.
13. "Lot, double frontage" means any lot which is not a corner lot which abuts two (2) streets.
14. "Major subdivision" means all subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of three (3) or more lots, or any size subdivision requiring any new street or extension of local government facilities, or the creation of any public improvements.
15. "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 physical features of the land.
16. "Minor plat" means a plat replacing a preliminary and final subdivision plat in the case of minor subdivisions to enable the subdivider to save time and expense in reaching a general agreement

with the Planning and Zoning Commission and the Council as to the form of time plat and the objectives of this chapter.

17. “Minor subdivision” means any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road greater than eighty (80) feet in length serving more than two (2) lots, or the extension of municipal facilities, or the creation of any public improvement, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Ordinance, or this chapter. In those situations where a land sale/subdivision has occurred but where a major subdivision is planned for submittal within six (6) months following the land sale, the major subdivision may substitute for a minor subdivision. However, no building permits will be authorized for the newly created parcel until such time that either a minor plat has been approved or a major subdivision has received preliminary plat approval.

18. “Nonresidential subdivision” means a subdivision, the intended use of which is other than residential, such as a commercial or industrial use. Such subdivision shall comply with the applicable provisions of this chapter.

19. “Official plat” means either an auditor’s plat or a major or minor subdivision plat that meets the requirements of Chapter 354 of the Code of Iowa and this chapter and has been filed for record in the offices of the Recorder, Auditor and Assessor.

20. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

21. “Plat” means a map, drawing, or chart on which a subdivider’s plan for the subdivision of land is presented, which the subdivider submits for approval and intends, in final form, to record.

22. “Resubdivision” means a change in 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 any lot line.

23. “Separate tract” means a parcel of land or a group of contiguous parcels of land under one ownership.

24. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right of way.

25. “Street, collector” means a street designated to serve the internal traffic circulation of a recognized land-use area which distributes and collects traffic between local and secondary streets.
26. “Street, local” means a street designed for access to abutting property and not intended to facilitate through traffic.
27. “Street, major” means an arterial street or other street which has or is planned to have continuity to carry traffic from one section of the City to another.
28. “Street, primary” means a street designed to carry traffic through the City providing the principal access to the central part of the City.
29. “Street, secondary” means a street designed to carry a smaller volume of traffic than the primary street and is intended to distribute traffic throughout the various sections of the City from the primary streets and the major streets.
30. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
31. “Subdivision” means the division of land into three (3) or more parts, for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context may refer to the process of subdividing or to land subdivided. However, the sale or exchange of small parcels of land to or between the owners of adjacent platted lots, where such sale or exchange does not create any additional lots and where the land sold or exchanged constitutes less than fifty percent (50%) of the area of the enlarged lot after such transfer, shall not be considered a subdivision.
32. “Subdivision agent” means any person who represents, or acts for or on behalf of a subdivider or developer, in selling, leasing or developing, or offering to sell, lease or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.
33. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.
34. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, sewage, storm water, telephone, cablevision, or other communication systems.

35. “Wetlands” means that classification of land subject to protection measures as indicated by the U.S. Army Corps of Engineers and/or the Iowa Department of Natural Resources.

**166.04 APPLICATION.** Every private property owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two (2) or more parts, for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles of the corporate limits of the City shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record. This provision shall not apply to lands acquired by the City or any City agency for public purposes.

**166.05 RECORDING OF PLAT.** No subdivision plat, resubdivision plat or street dedication within the City shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law.

**166.06 FEES ESTABLISHED.** The Council shall, from time to time, establish by resolution fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Council, and as required by this chapter.

**166.07 PENALTIES.** Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter, until the plat thereof has been approved by the Council and recorded as required by law, shall forfeit and pay one hundred dollars (\$100.00) for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City’s right to any other remedies available to the City for the enforcement of this chapter.

**166.08 BUILDING PERMIT TO BE DENIED.** No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter and until the improvements required by this chapter have been accepted by the City.

**166.09 APPROVAL REQUIRED.** Whenever any subdivision of land is proposed, before any sale or contract for sale is made for any part thereof, and before any permit for the erection of structure in such proposed subdivision shall be granted, the subdivider, or the developer, or the subdividing owner, or his authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the provisions of this chapter.

**166.10 MANNER OF CLASSIFICATION.** The Zoning Administrator shall determine whether the proposed subdivision is a “major subdivision” or “minor subdivision” as defined in Section 166.03. To aid in this determination, the subdivider or authorized subdivision agent shall submit in writing or otherwise document the principal features of access, relationship to public streets, proposed number of lots, and other pertinent data. If the proposed subdivision is determined to be major, the developer shall be required to submit preliminary and final plats in accordance with the provisions of this chapter. If the proposed subdivision is determined to be a minor subdivision the developer shall be required to submit a minor plat in accordance with the provisions of this chapter.

**166.11 IMPROVEMENTS.**

1. Improvements Required. The subdivider shall, at the subdivider’s expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.
2. Inspection. All improvements shall be inspected to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the City.
3. Minimum Improvements. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.
  - A. Streets. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, and taking into account potential expansion of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it



relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone, as determined by the City Engineer. However, if the greater width is required by potential expansion of the plat, then the City will not be responsible for the additional expense. The streets shall, upon final approval by the City Engineer and acceptance by the City, become the property of the City.

B. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, manholes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the subdivider's engineer and reviewed and approved by City staff. Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area as determined by the City Engineer. However, if the greater width is required by potential expansion of the plat, then the City will not be responsible for the additional expense. The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City, become the property of the City.

C. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in accordance with specifications of the City and at sewer grades established by the subdivider's engineer and reviewed and approved by City

staff. Under some circumstances the City may require, as a condition for approval of the plat, installation of a storm sewer system that is larger than necessary to meet the needs of the platted area, but necessary to complete the City storm sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area as determined by the City Engineer. However, if the greater width is required by potential expansion of the plat, then the City will not be responsible for the additional expense. The sewers shall, upon inspection, approval, and acceptance by the City, become the property of the City. In the storm sewer design phase, consideration shall be given to alternatives and principles of storm water management, or the provisions of a storm water management plan if such plan has been adopted by the City.

D. Water Main System. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the existing municipal water mains. The water mains and service stubs or service conduits shall be constructed in accordance with specifications of the City of Eldora Water Works. The subdivider or subdivider's engineer shall apply for a construction permit, submitting reproducible copies of the required Iowa Department of Natural Resources forms and appropriate schedules and water system construction plans. The subdivider and the subdivider's contractor shall enter into a contract with the City of Eldora Water Works and provide the required bonds and insurance documents. Upon final approval and acceptance by the City of Eldora Water Works the water mains shall become the property of the City of Eldora Water Works.

E. Street Sub-drains. The subdivider of land being platted shall install and construct a street sub-drain system adequate to serve the area. The street sub-drain system shall be constructed in accordance with specifications of the City. The sub-drain system shall be so constructed as to accept all sump pump systems and placed on grade to deliver flow to the nearest storm sewer system.

F. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area; the installation of walkways as

necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking areas; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the appropriate City authority. Sidewalks shall be installed at the time of construction or within two (2) years following final subdivision approval.

4. Easements Required.

A. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than twelve (12) feet in width shall be granted by the owner along rear, and where necessary, along front or side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

B. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, as approved by the City.

5. Maintenance Bond Required. The owner and subdivider of the land being platted shall be required to provide to the City property maintenance bonds satisfactory to the City, so as to ensure that for a period of two (2) years from the date of acceptance of any improvements, the owner and subdivider shall be responsible to maintain such improvement in good repair.

**166.12 MINIMUM DESIGN STANDARDS.**

1. Standards Prescribed. The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

2. Land Suitability. No land shall be subdivided which is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to

be unsuitable for subdivision for any of the reasons cited in this section, the Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify or withdraw its determination regarding such unsuitability.

3. Wetlands. No proposed subdivision or portion thereof located on wetlands as defined and designated by the U.S. Army Corps of Engineers and the Iowa Department of Natural Resources shall be approved by the Council without prior approval from the U.S. Corps of Engineers, the County Conservation Board and Iowa Department of Natural Resources.

4. Plat to Conform to Comprehensive Plan. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to, a major street plan, a sanitary sewer system plan, or a parks and open space plan, provided such plan has been adopted by the City.

5. Construction Standards for Improvements. In addition to the standards set forth in this chapter, the City Engineer shall from time to time prepare, and the Council shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements. Upon adoption by the Council by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

6. Parks and Open Space. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of its residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space, provided, there shall exist sufficient covenants, running with the land, to ensure adequate maintenance by the property owners benefiting from such open space.

7. Parks and School Sites Reserved. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

**166.13 MINOR PLAT.**

1. Submission Required. In a minor subdivision of land the subdivider shall file for approval a minor plat which shall include fourteen (14) copies of said minor plat addressed to the Planning and Zoning Commission for approval prior to issuance of any building permit.
2. Required Scale. A minor plat required in this division shall be drawn to a scale of one hundred (100) feet to one (1) inch or larger.
3. Information Required to be Shown. Prior to a minor subdivision of land the subdivider thereof shall file for approval a minor plat which shall show or be accompanied by the following:
  - A. All contiguous holdings of the owner, with an indication of the portion which is proposed to be subdivided and the manner wherein the property is to be subdivided, accompanied by an affidavit of ownership (which shall include the dates the respective holdings or land were acquired), and all public streets.
  - B. All public streets, subdivisions and landowners within three hundred (300) feet of the contiguous holdings of the owner.
  - C. The location and dimensions of:
    - (1) The proposed minor subdivision's exterior boundaries and proposed lots, streets, drives, or easements therein.
    - (2) Existing property lines, streets, easements, buildings, drainageways, tree masses, soil types, and other existing features affecting the plat or affected thereby.
    - (3) The location and width of proposed and existing streets, highways, roads and pedestrian ways.
    - (4) The location and size of existing and proposed public sewer lines, gas mains, water mains, culverts, pipelines, cables or other underground utility installations, with a description of the effect on each utility capacity and service level.
    - (5) Public and private parks and open spaces.
    - (6) Lot and block numbers of proposed and existing lots.
    - (7) North arrow, scale, date, subdivision's name and address, and the property's legal description.

(8) The distance from some corner of the subdivision to some corner of the congressional division of which it is a part.

(9) The location and dimension of any and all wetland areas shall be clearly shown. Provisions regarding the disposition of such lands shall be stated.

(10) Floodplain, floodway areas shall be clearly shown on the plat.

D. A written and signed statement in which the subdivider sets forth the proposed restrictions, easements, building lines, public improvements (if any), connections to or extension of public improvements, etc., within the area of the plat.

4. Procedure for Approval; Effect of Approval.

A. Fourteen (14) copies of the minor plat, one affidavit of ownership addressed to the Commission, and three (3) copies of a written and signed statement of proposed restrictions, easements and improvements within the area of the plat shall be filed with the said Commission, accompanied by a nonrefundable fee of twenty-five dollars (\$25.00). There shall be forthwith referred two (2) copies of said minor plat and a copy of the owner's statement to the City Engineer. Said Engineer shall carefully examine the plat for its conformance with the laws, ordinances and policies of the City, the existing street system and good engineering practices, and shall submit findings in duplicate to the Commission, together with a copy of the plat received.

B. When said Engineer's report is received by the Commission, it shall as soon as possible thereafter consider the report and pass upon the minor plat. Said Commission shall then set forth its recommendations in writing, whether of approval, modification or disapproval, and, in case of modification or disapproval, give its reasons therefor. Thereafter the Commission must submit all seven (7) copies of the minor plat, together with a copy of the owner's statement, a copy of the Engineer's report, and a signed copy of its recommendations, to the Council.

C. After receipt of the foregoing documents, the Council shall take action upon the minor plat, certifying its approval or disapproval. In case of disapproval, it shall give its reasons therefor. If approved, one copy of the minor plat shall be duly certified and shall be returned to the owner or subdivider.

D. The approval of the minor plat by the Council constitutes acceptance of the subdivision and authorization to proceed with development.

E. Upon approval of the minor plat by the Council, the subdivider or owner shall proceed with complete engineering data covering cross sections, profiles and proposed grade for the improvements, all to the satisfaction of the City Engineer.

F. Before the construction plans of any minor plat shall be approved, the subdivider shall, in lieu of final completion of the required improvements and before the plat is finally approved, enter into a contract with the City to ensure the completion of the improvement within a specified time. The performance of such contract shall be secured by the filing of a bond (or cash) to be approved by the Council. The bond or cash shall not be less than the approximate cost of the improvements approved by the City Engineer.

#### **166.14 MAJOR SUBDIVISION; PRELIMINARY PLAT.**

1. Submission Required. The subdivider shall prepare and file with the Clerk, fourteen (14) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

2. Information to be Shown. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

A. Title, scale, north arrow and date.

B. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county, as approved by the County Auditor.

C. The name and address of the owner and the name, address and profession of the person preparing the plan.

D. A key map showing the general location of the proposed subdivision in relation to surrounding development.

E. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located

within two hundred (200) feet of the subdivision boundary shall be attached.

F. The location of existing property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.

G. Existing and proposed zoning of the proposed subdivision and adjoining property.

H. Contours at vertical intervals of not more than two (2) feet accompanied by a note on the plat briefly describing the nature and extent of any topographic changes.

I. The legal description of the area being platted.

J. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.

K. The layout, numbers and approximate dimensions of proposed lots.

L. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.

M. The proposed names of all streets in the area being platted. Proposed street names shall not resemble or duplicate the names of existing streets within the City unless the proposed street is a continuation of an existing street.

N. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.

O. Present and proposed easements, showing locations, widths, purposes and limitations.

P. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.

Q. Regulatory flood elevation data, including limits of the 100-year floodplain boundaries, original and revised, must be shown upon the plat.

R. The location and dimensions of any and all wetland areas, as defined herein, shall be clearly shown. Provisions regarding the disposition of such lands shall be stated.



- S. The plat shall be accompanied by a written and signed statement in which the subdivider sets forth the proposed restrictions, easements, building lines, public improvements, etc., within the area of the plat.
  - T. Any other pertinent information, as necessary.
  - U. The fee, as required by this chapter.
3. Procedure for Approval; Effect of Approval.
- A. Procedure for Approval. Fourteen (14) copies of the preliminary plat, one copy of an attorney's title opinion addressed to the Commission, together with three (3) copies of the owner's statement, shall be filed with the Commission, accompanied by a nonrefundable fee of forty dollars (\$40.00), plus one dollar (\$1.00) per lot contained within the preliminary plat. There shall forthwith be referred two (2) copies of the plat and a copy of the owner's statement to the City Engineer. The City Engineer shall carefully examine the plat as to its compliance with the laws and ordinances of the City, the existing street system and good engineering practices, and shall submit findings in duplicate to the Commission, together with one copy of the plat received.
  - B. Recommendations for Approval. When the Engineer's report is received by the Commission, it shall as soon as possible thereafter consider the report and pass upon the plat. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval. In case of modification or disapproval, it shall give its reasons therefor. The Commission shall forthwith submit seven (7) copies of the preliminary plat, together with a copy of the owner's statement, a copy of the Engineer's report and a signed copy of its recommendations to the Council.
  - C. Certification of Approval. The Council shall then take action upon the preliminary plat, certifying its approval or disapproval. In case of disapproval, it shall give its reasons therefor. If approved, one copy shall be duly certified and shall be returned to the owner or subdivider.
  - D. Authorization to Proceed. The approval of the preliminary plat by the Council does not constitute acceptance of the subdivision, but shall be authorization to proceed with the preparation of the final plat.
  - E. Duration of Approval of Preliminary Plat. The approval of a preliminary plat by the Council shall be valid for a period of two

(2) years from the date of such approval, except upon application for and approval of an extension of such period of validity, by the Council.

F. Authorization to Install Improvements. The approval of the preliminary plat shall constitute authorization by the Council for the installation of improvements as required by this chapter, and as shown on the preliminary plat; provided, no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvements have been submitted to, and approved in writing by, the City Engineer.

#### **166.15 MAJOR SUBDIVISION; FINAL PLAT.**

1. Submission Required. The subdivider shall, within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the Clerk, fourteen (14) copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

2. Required Scale. The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than twenty-four inches by thirty-six inches (24" x 36") or smaller than eight and one-half inches by eleven inches (8½" x 11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

3. Information to be Shown. The final plat shall be clearly marked "Final Plat" and shall comply with Chapter 355 of the Code of Iowa and show the following:

- A. The name of the subdivision.
- B. Name of the owner and subdivider.
- C. Scale, and a graphic bar scale, north arrow and date on each sheet.
- D. All monuments to be of record, as required by Chapter 355, Code of Iowa.

- E. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
  - F. All distance, bearing, curve, and other survey data, as required by Chapter 355, Code of Iowa.
  - G. Street names and clear designation of public alleys.
  - H. Block and lot numbers.
  - I. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
  - J. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
  - K. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat."
  - L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
  - M. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal.
4. Attachments to the Final Plat. The following shall be attached to and accompany any final plat:
- A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;
  - B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an

officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

C. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

E. All resolution forms and certificates necessary for approval by the Planning and Zoning Commission and the City Council and for signatures by the Mayor and City Clerk.

F. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, "as built" plans for all improvements shall have been provided to the City Engineer. In lieu thereof, the Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

G. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.

H. The applicable fee, if any.

5. Procedure for Approval; Disapproval to State Reasons.
  - A. Fourteen (14) copies of the final plat, together with three (3) copies of signed owner's statement, shall be submitted to the Commission, accompanied by a nonrefundable fee of forty dollars (\$40.00), plus one dollar (\$1.00) per lot contained within the final plat. There shall forthwith be referred one copy of the plat, together with a copy of the owner's statement, to the City Engineer. The City Engineer shall carefully examine said plat as to its compliance with the approved preliminary plat, and shall submit findings in duplicate to the Commission together with the copy of the plat received.
  - B. When the Engineer's report is received by the Commission, it shall, as soon as possible, consider the report and pass upon the plat. When the final plat has been passed upon by the Commission, seven (7) copies of the plat shall forthwith be transmitted to the Council, together with a copy of the owner's statement, a copy of the Engineer's report and a signed copy of its approval to the Council.
  - C. When the final plat has been approved by the Council and all fourteen (14) copies duly certified, one copy shall be delivered to the owner or subdivider for filing with the County Recorder. If said plat is disapproved by the Council, such disapproval shall point out wherein the proposed plat is objectionable.

**166.16 CHARACTER OF DEVELOPMENT TO BE IN STATEMENT OF PLAT.** The Commission and the Council may require that certain minimum regulations regarding type and character of subdivision development to be incorporated in the owner's statement of plat. Such regulations shall be intended to protect the character and development of the platted subdivision, as well as that of the surrounding development.

**166.17 IMPROVEMENTS; BOND OR CASH REQUIRED.**

1. Before the final plat of any subdivided area shall be approved and recorded, the subdivider shall make and install the improvements required in this section.
2. In lieu of final completion of the required improvements and before the plat is finally approved, the subdivider shall enter into a contract with the City to ensure the completion of the improvements within a specific time. The performance of such contract shall be secured by the filing of a bond (or cash) to be approved by the Council.

The bond or cash shall be not less than the approximate cost of the improvements as estimated by the City Engineer.

3. The required improvements are as follows:

A. Street Grading and Surfacing. All streets shall be filled or excavated to the established grade and surfaced to the specifications of the City Engineer for a minimum width of thirty-one (31) feet.

B. Sewers. Developer shall connect the subdivision to existing City sewer of adequate size and shall provide within the subdivision the sanitary sewer system, including sewage pumping stations if required, to make the sewer accessible to each lot in the subdivision. Sanitary sewer systems shall be approved by the Council and the State Board of Health, and the construction supervised by the City Engineer. Adequate provisions shall be made for the disposal of storm water, subject to the approval of the Council and to the satisfaction of the City Engineer.

C. Other Street Improvements. The Commission and the Council may also require certain other street improvements, including the installation of sidewalks, water mains, curbing, paving or other street surfacing on any or all streets, such improvements to be installed in accordance with the specifications approved by the Council and under the supervision of the City Engineer.

D. Underground Installation of Utilities Required. All electrical, telephone, communication, street lighting, traffic signals, television wires and cables, and any other public utility or associated service providing service within any such subdivision shall be installed entirely underground by the developer thereof in accordance with the rules, regulations and specifications of the public utility or agency providing such service. The subdivider shall furnish information that satisfactory arrangements have been made with the serving public utility or agency. The Commission may recommend to the Council, after obtaining approval from the serving public utility or agency, that underground requirements may be waived if topographical, soil or other conditions make such installation unreasonable. For the purposes of this section, appurtenances and associated equipment such as, but not limited to, surface-mounted transformers, concealed ducts, pedestal-mounted terminal boxes and meter cabinets may be placed above ground as the regulations and policy of the serving public utility provide. Poles without overhead wires shall be permitted for

street light poles, fire alarm boxes, traffic signals, civil defense alarms or other municipal equipment installed under the direction of the Council.

**166.18 PARKS, RECREATIONAL AREAS.** Where a small park or other recreational area shown on a plan prepared by the Commission as part of the Master Plan for the City and adopted by the Council is located in whole or in part in the applicant's subdivision, the Council may, in those cases in which the Council deems such requirements to be reasonable, require the dedication or reservation of such area within the subdivision for park, playground, or other recreational purposes.

**166.19 DRAINAGE EASEMENTS.** Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's own expense, make adequate provisions of the proper drainage of surface water and shall also provide and dedicate to the City an easement along such streams and watercourses meeting the approval of the Council.

**166.20 LOT LINES.** All side lines of lots shall be at right angles to straight street lines, or radial to curved street lines, unless a variation to this rule will give a better street and lot plan. Lots with double frontage shall be avoided.

**166.21 REQUIRED LOT DIMENSIONS.** The minimum dimensions for lots in a subdivision shall be sixty (60) feet for width and one hundred (100) feet for depth, except when parallel streets existing prior to May 1, 1954, are not less than one hundred seventy (170) feet and not more than two hundred (200) feet apart, in which case, lots may be eighty-five (85) feet in depth. In no case shall a lot that is to be used for residential purposes contain less area than is required by the lot area regulation of the zoning district in which the property is located.

**166.22 CORNER LOTS.** Corner lots in subdivisions on major street intersections, and at all other points likely to be dangerous, shall have a radius of not less than fifteen (15) feet at the street corner. On business lots, a chord may be substituted for the circular arc. Corner lots shall not be less than seventy (70) feet in width.

**166.23 BUILDING LINES.** Building lines in subdivisions shall be shown on the plat and included in the owner's statement on all lots whenever the depth of such building lines is greater than those required by the zoning ordinance. Provisions shall be made in the owner's statement requiring all enclosed parts of buildings to be set back to such building lines.

**166.24 STREET EXTENSIONS.** Where a parcel of land is subdivided into larger tracts than ordinarily used for building lots, such parcel shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets. Easements providing for the future opening and extension of such streets may, at the discretion of the Council, be made a requirement of the plat.

**166.25 RELATION OF STREETS TO ADJOINING STREET SYSTEMS.**

1. New subdivisions shall make provisions for the principal existing streets in adjoining additions insofar as they may be necessary for public requirements. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new streets shall be carried to the boundaries of the land being subdivided. Streets shall be of a width as great as that of the streets so continued or projected, but shall not be less than the minimum width requirement.
2. No dead-end streets shall be approved unless said streets are intended to connect to future streets on adjacent land. In such event, a temporary turnaround shall be provided of at least ninety (90) feet in diameter.
3. Whenever a cul-de-sac is permitted, such street shall be no longer than six hundred (600) feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least one hundred twenty (120) feet, with a ninety-foot (90') street diameter. A right-of-way width and turnaround of greater diameter may be required in the case of commercial or industrial subdivisions.

**166.26 STREET SYSTEM TO COMPLY WITH CITY'S PLAN.** The street system of a subdivision shall be so arranged to comply, as far as practicable, with the major street plan of the City, providing such a plan is in force. Intersecting streets, if possible, shall be near ninety degree (90°) angles to each other. No street shall be parallel or approximately parallel to a railroad, unless it is one hundred fifty (150) feet or more from the line of the railroad right of way.

**166.27 STREET WIDTH.**

Street and Alley Type	R.O.W. (Lot Line to Lot Line)	Min. Roadway (Back of Curb)
Major Highway	150 feet	69 feet
Primary	100 feet	49 feet
Secondary	80 feet	45 feet



Collector	70 feet	37 feet
Local	60 feet	31 feet
Alley	16 feet	16 feet

Curb lines at street intersections shall be rounded to a minimum of twenty (20) feet. A greater radius may be required in the case of commercial or industrial subdivisions.

**166.28 STREET GRADES.** Street grades, if practical, shall not exceed six percent (6%) for major streets and ten percent (10%) for other streets and no grade shall be less than one-half of one percent (0.5%).

**166.29 STREET NAMES.** All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing street, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.

**166.30 ALLEYS.** The minimum width of an alley in a residential block in a subdivision shall be sixteen (16) feet. Alleys are not recommended for residential districts except under unusual conditions. Alleys will be required in the rear of all business lots and shall be at least twenty-four (24) feet wide.

**166.31 EASEMENTS REQUIRED IN ABSENCE OF ALLEYS.** Where alleys are not provided in a subdivision, easements of not less than six (6) feet in width shall be provided on each side of all rear lot lines and side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains. Easements of a greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities. The subdivider shall consult with the City Engineer, Director of Utilities and the manager of the local telephone company as for the need and location of such easements.

**166.32 PLACES.** Where it is desired to subdivide a parcel of land, which, 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 or court is more than two hundred fifty (250) feet in length, it shall terminate in an open space, preferably circular, having a minimum dimension of one hundred twenty (120) feet with a ninety-foot (90') street diameter.

Except in unusual instances, no dead-end street or place shall exceed six hundred (600) feet in length.

### **166.33 PLATS OUTSIDE CORPORATE LIMITS.**

1. All proposed subdivision plats for property lying outside of, but within two (2) miles of, the corporate limits of the City shall submit such proposed plats as described herein and shall develop such subdivisions in accordance with those provisions stated herein.
2. Those areas outside the City corporate limits and subject to subdivision review, as authorized by State Code section 354.9, are as follows:

All areas within two (2) miles adjacent to said corporate limits.

3. Any lot outside the corporate limits described as or intended for use as a residential lot shall have an area of not less than nine thousand (9,000) square feet and a width of not less than sixty (60) feet for interior lots and seventy (70) feet for corner lots.
4. The owner's statement of plat concerning a subdivision outside the corporate limits shall include a statement to the effect that all buildings to be erected on any of the lots shall be constructed in accordance with the building, plumbing and electrical codes of the City.

### **166.34 LIMITATION ON BUILDING PERMITS UNLESS PLATTED.**

No more than one building permit shall be issued for each separate tract existing at the time of the effective date of this chapter unless said separate tracts have been platted in accordance with the provisions of this chapter, except that this section shall not limit the number of building permits that may be issued for accessory buildings, remodeling or additions already existing on each separate tract.

**166.35 PROCESSING FEES FOR DEDICATIONS.** Applications to the Commission for the dedication or vacation of City rights-of-way for streets or alleys shall be accompanied by a nonrefundable fifty dollar (\$50.00) fee. Said fee shall be exempt if the dedication or vacation is processed in the form of a plat and platting fees are paid in lieu thereof. Upon receipt of the plat and written reports thereon, the Council shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Council shall approve the plat, and shall cause its approval to be entered on the plat as required by law. Action on the final plat by the Council shall be taken within sixty (60) days of the date of filing of the

plat with the Clerk, unless such time period is extended by agreement between the subdivider and the City. If the action is to disapprove the plat, the reasons therefor shall be set forth in the official records of the Council and such decision shall be provided to the subdivider.

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**CITY OF ELDORA, IOWA**  
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