

**CODE OF ORDINANCES**

**OF THE**

**CITY OF**

**WEST POINT, IOWA**

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



# **CODE OF ORDINANCES CITY OF WEST POINT, IOWA**

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# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title
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1.03 City Powers
1.04 Indemnity
1.05 Personal Injuries
1.06 Rules of Construction
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1.13 General Standards for Action
1.14 Standard Penalty

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

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the city of West Point, Iowa.
3. "Clerk" means the city clerk of West Point, 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 or a standard code adopted by reference).
5. "Code of Ordinances" means the Code of Ordinances of the City of West Point, Iowa.
6. "Council" means the city council of West Point, Iowa.
7. "County" means Lee County, Iowa.
8. "IAC" means the Iowa Administrative Code.
9. "May" confers a power.
10. "Measure" means an ordinance, amendment, resolution, or motion.
11. "Must" states a requirement.
12. "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.
13. "Ordinances" means the ordinances of the City of West Point, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

14. “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.

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

16. “Shall” imposes a duty.

17. “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.

18. “State” means the State of Iowa.

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

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

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

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

*(Code of Iowa, Sec. 364.1)*

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

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

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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

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

*(Code of Iowa, Sec. 808.14)*

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

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00.<sup>†</sup>

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

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<sup>†</sup> **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3.

**CHAPTER 2**

**CHARTER**

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

**2.01 TITLE.** This chapter may be cited as the charter of the City of West Point, Iowa.<sup>†</sup>

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1(3))*

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 133 adopting a charter for the City was passed and approved by the Council on September 12, 1973, and was published on September 20, 1973.

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## CHAPTER 3

# MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties

3.04 Civil Citations  
3.05 Alternative Relief  
3.06 Alternative Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
  - A. First offense – not to exceed \$750.00
  - B. Each repeat offense – not to exceed \$1,000.00

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 364.22[9])*



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

*(Code of Iowa, Sec. 364.22[12])*

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## CHAPTER 4

### BOUNDARIES

**4.01 CORPORATE LIMITS.** The corporate limits of the City are described as follows:

*Beginning 1320 feet South of the N 1/4 of Sec. 5-68-5, thence easterly to the centerline of St Paul Rd.; thence northerly 210 feet; thence easterly 200 feet; thence southerly 210 feet to the 1/4 line of section; thence east along the 1/4 line 535 feet; thence northerly 148.5 feet; thence easterly 200 feet; thence southerly 148.5 feet to the 1/4 line of Section 5; thence easterly 155.75; thence northerly 148.5 feet; thence easterly to the extension of the east line of the Original Town plat of West Point; thence northerly approx. 112 feet along said extension; thence southeasterly to the east line of Sec. 5-68-5; thence continuing southeasterly 188.53; thence southerly 177.62; thence westerly 179.852 to the east line of Sec. 5-68-5; thence continuing westerly to the extension of the east line of the Original Town Plat of West Point; thence southerly to the northeast corner of Original Town Plat of West Point; thence south 1,012 feet; thence east along the boundary of the Original Town Plat of West Point approx. 140 feet; thence southerly along the Original Town Plat of West Point 450 feet to the north line of Ave. E; thence easterly along the north line of Ave. E to the east line of the Original Town Plat of West Point; thence south along the east line of the Original Town Plat of West Point the north line of Ave. C; thence continuing southerly along the extension of the Original Town Plat of West Point to the south line of Ave. C; thence west along the south line of Ave. C to the East line of Pietz Sub.; thence southerly along the east lines of Pietz Sub & Freitag Sub to the southeast corner of Freitag Sub; thence westerly along the southern boundaries of Freitag Sub and Freitag 2<sup>nd</sup> Sub to the east line of 8<sup>th</sup> St.; thence southerly along the east line of 8<sup>th</sup> St. to the northwest corner of Mansheims 1<sup>st</sup> Add. Plat No. 1; thence east 219.83 feet along the north line of Mansheims 1<sup>st</sup> Add. Plat No. 1; thence following the boundary of Mansheims 1<sup>st</sup> Add. Plat No. 1 southerly, easterly, southerly then westerly to the east line of 8<sup>th</sup> St.; thence southerly 118.58 feet along the east line of 8<sup>th</sup> St.; thence westerly 30 feet; thence southerly 957.08 to the northeast corner of West Point Sub-Plat 1; thence continuing southerly along the east line of West Point Sub-Plat 1 to the southeast corner of West Point Sub - Plat 1 on the south line of 175<sup>th</sup> St.; thence west along the south boundary of West Point Sub-Plat, 447.62 feet to the southwest corner of West Point Sub - Plat 1; thence northerly along the west line of West Point Sub - Plat 1 to the northwest corner of West Point Sub-Plat 1; thence westerly 182.93 feet; thence southerly 714.44 to the southeast corner of Fullenkamp Sub Plat 1; thence westerly along the south line of Fullenkamp Sub Plat 1, 199.86 feet to the southwest corner of Fullenkamp Sub Plat 1 and the centerline of 5<sup>th</sup> St.; thence northerly along the centerline of 5<sup>th</sup> St. to a point where the extension of the southern boundary of Country Lane Add Plat 1 intersects the centerline of 5<sup>th</sup> St.; thence southwesterly along said extension to the southeast corner of Country Lane Add Plat 1; thence continuing along the south boundary of Country Lane Add Plat 1 and the southwesterly extension of said plat to the west line of the NE 1/4 Sec. 8-68-5; thence N 00-35-27 W 15.88 feet; thence S 7-36-56*

*W 284.33 feet; thence S 26-58-07 W 48.52 feet; thence S 66-05-56 W 337.99 feet; thence S 60-28-25 W 108.47 feet; thence N 00-35-08 W 510.82 feet; thence northerly to a point on the north line of Sec. 8-68-5 695 feet west of the N ¼ Car Sec. 8-68-; thence easterly along the north line of Sec 8-68-5 to a point 518.3 east of the N¼ Car. Sec. 8-68-5; thence northerly 797.4 feet; thence westerly 125.78 feet; thence northerly 46.55; thence west 392.01 feet; thence north 3,000 feet to the point of beginning.*

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## CHAPTER 5

# OPERATING PROCEDURES

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

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer, and such other officers and employees as may be necessary and advisable except as allowed in Subsection 5.

*(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(1)(a))*

5. Insurance Policy in Lieu of Bond. In lieu of a bond, a public officer required to obtain a bond pursuant to Chapter 64 of the *Code of Iowa* may obtain an insurance policy in an amount not less than the amounts required of a bond.

*(Code of Iowa, Sec. 64.3)*

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

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

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

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

**5.05 TRANSFER TO SUCCESSOR.** Each officer shall transfer to their 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. Definitions. The following terms are defined for use in this section.
  - A. “Closed session” means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.
  - B. “Hybrid meeting” means a meeting involving both remote participation and in-person participation by members.
 

*(Code of Iowa, Sec. 21.8(4)(a))*
  - C. “Open session” means a meeting to which all members of the public have access.
 

*(Code of Iowa, Sec. 21.2(3))*
  - D. “Remote participation” means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.
 

*(Code of Iowa, Sec. 21.8(4)(b))*
  - E. “Reasonable notice” means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body

holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

*(Code of Iowa, Sec. 21.4(1))*

F. “Teleconference participation” means participation using audio conference tools involving multiple participants in at least two separate locations.

*(Code of Iowa, Sec. 21.8(4)(c))*

G. “Virtual meeting” means a meeting involving real-time interaction using integrated audio, video, and other digital tools, in which participants do not share a physical location.

*(Code of Iowa, Sec. 21.8(4)(d))*

2. Notice of Meetings. Reasonable notice of the time, date, and place of each meeting and its tentative agenda shall be given.

*(Code of Iowa, Sec. 21.4)*

3. 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)*

4. 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)*

5. 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)*

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

*(Code of Iowa, Sec. 21.7)*

7. Electronic Meetings. A governmental body shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members of the governmental body to participate in official meetings. A governmental body conducting a meeting pursuant to this subsection shall comply with all of the provisions of Chapter 21 of the *Code of Iowa*.

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

*(Code of Iowa, Sec. 362.5(3)(a))*

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(3)(b))*
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)(c))*
4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in Subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.  
*(Code of Iowa, Sec. 362.5(3)(e))*
5. Newspaper. The designation of an official newspaper.  
*(Code of Iowa, Sec. 362.5(3)(f))*
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(3)(g))*
7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.  
*(Code of Iowa, Sec. 362.5(3)(h))*
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.  
*(Code of Iowa, Sec. 362.5(3)(i))*
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.  
*(Code of Iowa, Sec. 362.5(3)(d))*
10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.  
*(Code of Iowa, Sec. 362.5(3)(j))*
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(3)(k))*
12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.  
*(Code of Iowa, Sec. 362.5(3)(l))*



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

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

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

*(Code of Iowa, Sec. 372.15)*

**5.10 VACANCIES.** A vacancy in an elective City office during a term of office shall be filled in accordance with Section 372.13(2) of the *Code of Iowa*.

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

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

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## CHAPTER 6

# CITY ELECTIONS

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

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

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

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

*(Code of Iowa, Sec. 45.3, 45.5, and 45.6)*

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

*(Code of Iowa, Sec. 45.4)*

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

*(Code of Iowa, Sec. 376.8(3))*

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## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

7.09 Investment of Funds

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

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

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

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance, or Council directive.

2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the *Code of Iowa*.

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

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

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

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance, or resolution.

2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, was properly budgeted, and supported by a claim approved by the Council.

3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

*(545 IAC 2.5[2])*

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

*(545 IAC 2.5[3])*

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

*(545 IAC 2.5[4])*

6. Utility and Enterprise Funds. A surplus in a Utility or Enterprise Fund may be transferred to any other City fund, except the Emergency Fund, by resolution of the Council. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the Utility or Enterprise Fund. A surplus is defined as the cash balance in the operating account or the unrestricted net position calculated in accordance with generally accepted accounting principles, after adding back the net pension and other postemployment benefits, liabilities, and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:

A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and

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

*(545 IAC 2.5[5])*

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Annual Statement.

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

A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information

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

B. Not later than March 15, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2A(2)(b)(1-10) of the *Code of Iowa*.

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

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. The proposed property tax hearing shall be set on a date on or after March 20 of the budget year immediately preceding the budget year for which the tax is being proposed. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

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

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

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on a date no later than the date of publication of the notice.

(4) Failure of a newspaper to publish a required notice under this paragraph shall not be considered a failure of a political subdivision to provide required notice under this paragraph if all of the following conditions are met:

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Section 24.2A(2)(b) of the *Code of Iowa*.

b. The political subdivision can demonstrate to the county auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

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

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

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

7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.

*(Code of Iowa, Sec. 384.16(2))*

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

*(Code of Iowa, Sec. 384.16(5))*

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

*(Code of Iowa, Sec. 384.18)*

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

*(545 IAC 2.2)*

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

*(545 IAC 2.3)*

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

*(545 IAC 2.4)*



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

(545 IAC 2.4)

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Clerk, Deputy Clerk, or City Administrator, following Council approval, except as provided by Subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include (but is not limited to) payment of utility bills, contractual obligations, payroll, and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable

lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

*(Code of Iowa, Sec. 384.22)*

**7.09 INVESTMENT OF FUNDS.** The City Administrator shall advise the Council on investments and shall invest City monies not immediately needed at interest in accordance with Council directives and the requirements of Chapter 12C of the *Code of Iowa*.

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## CHAPTER 8

# INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

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

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

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

**8.03 PERIOD OF PARTIAL EXEMPTION.** The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers is eligible to receive a partial exemption from taxation for a period of

five years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

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

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

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

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

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

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

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

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

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

**8.07 APPROVAL.** A person may submit a proposal to the Council to receive prior approval for eligibility for a tax exemption on new construction. If the Council resolves to consider such a proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least 30 days after such hearing, the 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 regulations. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

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

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

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

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

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

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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 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 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

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

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

9. Licenses and Permits. Sign all licenses and permits that have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

**15.03 APPOINTMENTS.**

*(Code of Iowa, Sec. 372.4)*

1. The following appointments shall be made by the Mayor:
  - A. Mayor Pro Tem.
2. The following appointments shall be made by the Mayor with Council approval:
  - A. Police Chief.
  - B. West Point Utility Board of Trustees.
  - C. Library Board of Trustees.

**15.04 COMPENSATION.** The salary of the Mayor shall be \$2,000.00 per year; additionally, \$50.00 shall be payable for each special meeting, committee meeting or other official meeting attended up to a maximum amount of \$500.00 per calendar year, payable quarterly.

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

*(Code of Iowa, Sec. 372.4)*

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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 shall appoint a member of the Council as Mayor Pro Tem, who shall serve as vice president of the Council.

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

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

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

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

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

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

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

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## CHAPTER 17

# CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 NUMBER AND TERM OF COUNCIL.** The Council consists of five Council members elected at large for terms of two years.

*(Code of Iowa, Sec. 372.4 and 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 that may be specially assessed.

*(Code of Iowa, Sec. 364.2[1], 384.16, and 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 approved by the Council.

*(Code of Iowa, Ch. 26)*

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 \$100,000.00 on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The regular meetings of the Council are on the second Monday of each month at 5:30 p.m. at the West Point City Library, 317 5<sup>th</sup> Street. If such day falls on a legal holiday, the meeting is held the following Monday at the same time unless a different day or time is determined by the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.  
*(Code of Iowa, Sec. 372.13[5])*
3. Quorum. A majority of all Council members is a quorum.  
*(Code of Iowa, Sec. 372.13[1])*
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.  
*(Code of Iowa, Sec. 372.13[5])*
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk.
2. City Attorney.
3. City Administrator.
4. Planning and Zoning Commission.
5. Zoning Board of Adjustment.
6. Deputy Clerk.

**17.06 COMPENSATION.** The salary of each Council member shall be \$50.00 for each regular meeting of the Council attended and \$30.00 for each meeting of a committee of the Council attended, provided said Council member is a member of said committee, 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 and Compensation	18.08 Records
18.02 Powers and Duties: General	18.09 Attendance at Meetings
18.03 Publication of Minutes	18.10 Licenses and Permits
18.04 Recording Measures	18.11 Notification of Appointments
18.05 Other Publications	18.12 Elections
18.06 Authentication	18.13 City Seal
18.07 Certification	

**18.01 APPOINTMENT AND COMPENSATION.** At its first meeting in January following the regular City election, the Council shall appoint by majority vote a Clerk to serve for a term of two years. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

**18.03 PUBLICATION OF MINUTES.** Within 15 days following a regular or special meeting of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

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

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

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

*(Code of Iowa, Sec. 362.3)*

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.
2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

**18.13 CITY SEAL.** The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words "CITY SEAL" and around the margin of which are the words "INCORPORATED CITY OF WEST POINT, IOWA."

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## CHAPTER 19

# CITY TREASURER

**19.01 Appointment**  
**19.02 Compensation**

**19.03 Duties of Treasurer**

**19.01 APPOINTMENT.** The 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  
20.09 Representation of City Employees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**20.09 REPRESENTATION OF CITY EMPLOYEES.** The City Attorney shall not appear on behalf of any City officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the Council, appear to defend any City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

*(Code of Iowa, Sec. 670.8)*

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## CHAPTER 21

# CITY ADMINISTRATOR

21.01 Appointment and Term  
21.02 Compensation  
21.03 Administrative Responsibility

21.04 Duties  
21.05 Ex-Officio Clerk

**21.01 APPOINTMENT AND TERM.** The Council shall appoint by majority vote a City Administrator to serve at the discretion of the Council.

**21.02 COMPENSATION.** The City Administrator shall receive such annual salary as the Council shall from time to time determine by resolution.

**21.03 ADMINISTRATIVE RESPONSIBILITY.** The City Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All City departmental administration, requiring the attention of the Council, shall be brought before the Council by the City Administrator. The City Administrator may serve as the head of one or more departments of the City.

**21.04 DUTIES.** The duties of the City Administrator are as follows:

1. To supervise the enforcement and execution of the City laws.
2. To attend all meetings of the Council unless excused by the Mayor.
3. To recommend to the Council such measures as may be necessary or expedient for the good government and welfare of the City.
4. To have the general supervision and direction of the administration of the City government.
5. To supervise and direct the official conduct of all officers, departments, and employees of the City. To effectuate their responsibility, and subject to the exception set out hereinafter, the City Administrator shall have the power and authority to employ such assistants and other employees of the City for which the Council has approved the position generally, and to discharge said assistants or employees found incompetent or derelict in their duties.
6. To supervise the performance of all contracts for work to be done for the City and supervise all purchases of materials and supplies and see that such material and supplies are received and are of the quality and character called for by the contract.
7. To supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for capital improvements.
8. To investigate the affairs and conduct of any department, agency, officer, or employee under the supervision of the City Administrator.
9. To provide for and cause records to be kept of the issuance and revocation of businesses and permits authorized by City law.

10. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.
11. To conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
12. To present to the Council monthly written itemized reports.
13. To have the capability to work with department heads to apply for grants.
14. To perform other duties as the Mayor and Council may direct.

**21.05 EX-OFFICIO CLERK.** The City Administrator is ex-officio Clerk and also performs the duties of Clerk as identified in Chapter 18 of this Code and by the *Code of Iowa*, unless those duties have been delegated by the City Administrator.

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## CHAPTER 22

# LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.07 Nonresident Use
22.02 Library Trustees	22.08 Expenditures
22.03 Qualifications of Trustees	22.09 Annual Report
22.04 Organization of the Board	22.10 Injury to Books or Property
22.05 Powers and Duties	22.11 Theft
22.06 Contracting with Other Libraries	22.12 Notice Posted

**22.01 PUBLIC LIBRARY.** The public library for the City is known as the West Point 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 six resident trustees and one nonresident trustee. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

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

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

**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. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.
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 Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, 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 Library Director, 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 Library Director to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government, and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises, and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises, and bequests accepted by the City by action against the Council.
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

**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 and Ch. 28E)*

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

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

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

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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.** The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of five members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

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

**23.02 TERM OF OFFICE.** The term of office of the members of the Commission shall be five 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 remainder 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 on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon

action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

*(Code of Iowa, Sec. 392.1)*

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivisions or re-subdivisions of land 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. 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 that are received by the City for City planning and zoning purposes.

*(Code of Iowa, Sec. 392.1)*

7. 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)*

8. 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 and disbursements and the progress of its work during the preceding fiscal year.

*(Code of Iowa, Sec. 392.1)*

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## CHAPTER 25

### UTILITY BOARD OF TRUSTEES

25.01 Purpose

25.02 Board Established

25.03 Appointment of Trustees

25.04 Compensation

25.05 Vacancies

25.06 Powers and Duties of the Board

25.07 Control of Funds

25.08 Accounting

25.09 Discriminatory Rates Illegal

25.10 Discontinuance of Board

**25.01 PURPOSE.** The purpose of this chapter is to provide for the operation of the municipally owned West Point Municipal Utility by a board of trustees.

**25.02 BOARD ESTABLISHED.** Pursuant to an election held November 6, 1975, the management and control of the municipally owned West Point Municipal Utility were placed in the hands of a Board of Trustees.

*(Code of Iowa, Sec. 388.2)*

**25.03 APPOINTMENT OF TRUSTEES.** The Mayor shall appoint, subject to the approval of the Council, three persons to serve as trustees for staggered six-year terms. A public officer or salaried employee of the City shall not serve on the utility board.

*(Code of Iowa, Sec. 388.3)*

**25.04 COMPENSATION.** The Council shall by resolution set the compensation of Board members.

*(Code of Iowa, Sec. 388.3)*

**25.05 VACANCIES.** An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term.

*(Code of Iowa, Sec. 388.3)*

**25.06 POWERS AND DUTIES OF THE BOARD.** The Board of Trustees may exercise all powers of the City in relation to the combined utility system, with the following exceptions:

*(Code of Iowa, Sec. 388.4)*

1. Taxes, Ordinances, and Bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

*Code of Iowa, Sec. 388.4[1])*

2. Property. Title to all property must be in the name of the City but the Board has full control of such property subject to limitations imposed by law.

*(Code of Iowa, Sec. 388.4[2])*

3. Reports to Council. The Board shall make a detailed annual report to the Council, including a complete financial statement.

*(Code of Iowa, Sec. 388.4[3])*

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general

circulation in the City a condensed statement of proceedings, including a list of all claims.

*(Code of Iowa, Sec. 388.4[4])*

**25.07 CONTROL OF FUNDS.** The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

*(Code of Iowa, Sec. 388.5)*

**25.08 ACCOUNTING.** Utility moneys are held in a separate utility fund, [with a separate account for each (utility or combined utility system)].

*(Code of Iowa, Sec. 388.5)*

**25.09 DISCRIMINATORY RATES ILLEGAL.** The utility may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, *Code of Iowa*.

*(Code of Iowa, Sec. 388.6)*

**25.10 DISCONTINUANCE OF BOARD.** A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five years.

*(Code of Iowa, Sec. 388.2)*

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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 Powers and Duties of Police Chief  
30.08 Departmental Rules  
30.09 Summoning Aid  
30.10 Taking Weapons

**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])*  
*(501 IAC 3 and 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 and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select, subject to the approval of Council, the other members of the department.  
*(Code of Iowa, Sec. 372.4)*

**30.07 POWERS AND DUTIES OF POLICE CHIEF.** 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 that 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*)

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**CHAPTER 35**  
**FIRE PROTECTION**

**35.01 JOINT AGREEMENT.** An Agreement for Fire Protection Services was entered into, between the City and Lee County, pursuant to Chapter 28E of the *Code of Iowa*.

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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 groundwaters, 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 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 to the City for all of the following:

1. The reasonable cleanup costs incurred by the City or the agents of 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 or the agents of 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.
4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

**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 City of West Point of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The City of West Point shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the City of West Point, 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 40

# PUBLIC PEACE

40.01 Assault  
40.02 Harassment

40.03 Disorderly Conduct  
40.04 Failure to Disperse

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 723.5)*

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

*(Code of Iowa, Sec. 723.3)*

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

**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 they are not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

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

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

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

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 708.12)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.11 DISCHARGING WEAPONS.**

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

**41.12 THROWING AND SHOOTING.** It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

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

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

**41.14 FIREWORKS.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:
  - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
    - (1) First-class consumer fireworks:
      - a. Aerial shell kits and reloadable tubes;
      - b. Chasers;
      - c. Helicopters 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 under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
    - (2) Second-class consumer fireworks:
      - a. Cone fountains;
      - b. Cylindrical fountains;
      - c. Flitter sparklers;
      - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held 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. "Display fireworks" includes 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. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.

C. "Novelties" includes 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.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: .....\$250,000.00 per person
- B. Property Damage: .....\$50,000.00
- C. Total Exposure: .....\$1,000,000.00

3. Consumer Fireworks.

A. It is unlawful for any person to use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.

B. It is unlawful for any person to use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:

- (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.
- (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.
- (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

C. It is unlawful for any person to use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.



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

*(Code of Iowa, Sec. 727.12)*

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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

42.07 Other Public Property Offenses

### 42.01 TRESPASSING.

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

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

**42.04 UNAUTHORIZED ENTRY.** No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Chapter 22 – Library
  - A. Section 22.10 – Injury to Books or Property
  - B. Section 22.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
  - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
  - A. Section 135.01 – Removal of Warning Devices
  - B. Section 135.02 – Obstructing or Defacing
  - C. Section 135.03 – Placing Debris On
  - D. Section 135.04 – Playing In
  - E. Section 135.05 – Traveling on Barricaded Street or Alley
  - F. Section 135.08 – Burning Prohibited
  - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
  - A. Section 136.11 – Interference with Sidewalk Improvements
  - B. Section 136.15 – Fires or Fuel on Sidewalks
  - C. Section 136.16 – Defacing
  - D. Section 136.17 – Debris on Sidewalks
  - E. Section 136.18 – Merchandise Display
  - F. Section 136.19 – Sales Stands

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## CHAPTER 43

# DRUG PARAPHERNALIA

### 43.01 Purpose

### 43.02 Controlled Substance Defined

### 43.03 Drug Paraphernalia Defined

### 43.04 Determining Factors

### 43.05 Possession of Drug Paraphernalia

### 43.06 Manufacture, Delivery, or Offering For Sale

**43.01 PURPOSE.** The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture, and delivery of drug paraphernalia as defined herein.

**43.02 CONTROLLED SUBSTANCE DEFINED.** The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*, as it now exists or is hereafter amended.

**43.03 DRUG PARAPHERNALIA DEFINED.** The term “drug paraphernalia” as used in this chapter means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separators; Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
  - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - B. Water pipes;
  - C. Carburetion tubes and devices;
  - D. Smoking and carburetion masks;
  - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
  - F. Miniature cocaine spoons and cocaine vials;
  - G. Chamber pipes;
  - H. Carburetor pipes;
  - I. Electric pipes;
  - J. Air driven pipes;
  - K. Chillums;
  - L. Bongs;
  - M. Ice pipes or chillers.

**43.04 DETERMINING FACTORS.** In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity to Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.
4. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.



6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object explaining or depicting its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

**43.05 POSSESSION OF DRUG PARAPHERNALIA.** It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.

**43.06 MANUFACTURE, DELIVERY, OR OFFERING FOR SALE.** It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age  
45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles  
45.04 Social Host

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

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

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

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

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

## **45.02 PUBLIC CONSUMPTION OR INTOXICATION.**

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

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

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

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

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

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

3. A person shall not simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

*(Code of Iowa, Sec. 123.46)*

**45.03 OPEN CONTAINERS IN MOTOR VEHICLES.** *[See Section 62.01(50) and (51).]*

**45.04 SOCIAL HOST.** A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of 18, to consume or possess on such property any alcoholic beverage. The provisions of this subsection shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

*(Code of Iowa, Sec. 123.47)*

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## 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 that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore 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 18 years.
  - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that 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 law enforcement 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 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, that 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. It is unlawful for any minor to be or remain upon any of the alleys, streets, or public places or to be in places of business and amusement in the City between the hours of 12:00 a.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday, and Thursday and between the hours of 12:00 a.m. and 5:00 a.m. on Friday and Saturday.
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 one hour after the end or before the beginning of work;
    - (2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
    - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
    - (4) School activity or, if traveling, within one hour after the end or before the beginning 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 one hour after the end or before the beginning 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 law enforcement officer on the street shall, in the first instance, use their 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 nonsecured 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 law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement 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 law enforcement officer 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 municipal infraction.

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement 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, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

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 municipal infraction.

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age

possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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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 Camping  
47.06 Curfew in City Parks  
47.07 Commercial Use  
47.08 Alcoholic Beverages

**47.01 PURPOSE.** The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.  
*(Code of Iowa, Sec. 364.12)*

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

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

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

**47.05 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.

**47.06 CURFEW IN CITY PARKS.** Time limits for use of City parks are established as follows:

1. City Square Park. It is unlawful for any person to be or remain upon any portion of the City Square Park between the hours of 2:00 a.m. and 5:00 a.m.
2. South Park. It is unlawful for any person to be or remain upon any portion of South Park between the hours of 7:00 p.m. and 5:00 a.m. from November 1 through March 31 and between the hours of 1:00 a.m. and 5:00 a.m. from April 1 through October 31.
3. Exceptions. The time restrictions provided by this section may be waived upon approval by the Council following submission of a written application stating applicant's name and the date, time, and reason for request to except the specified time limits.

**47.07 COMMERCIAL USE.** City parks may not be used for any commercial or profit-making activities of any kind without prior consent of the Council. Upon receiving the consent of the Council, the City Administrator shall issue a license to conduct the activity on a given date or dates defined by the applicant. Before issuing such license, the City Administrator shall require the following from the applicant:

1. Written application setting forth dates, time, intended purpose, and description of activity for which applicant intends to use a City park.
2. Certificate of liability insurance from insurance carrier approved by City Administrator providing minimum coverage of \$300,000.00 of combined bodily injury and property damage per occurrence and with the City named as an additional insured.
3. In addition, the City Administrator may require the following from the applicant:
  - A. To execute a hold harmless and indemnification agreement in such form as approved by the City Administrator.
  - B. License fee in the amount of \$50.00 or such amount as may be established by the Council.

**47.08 ALCOHOLIC BEVERAGES.** It shall be unlawful for any person to possess or consume any alcoholic beverages, wine, or beer in any City park except when the park is covered by a liquor control license or as otherwise may be provided by this section.

1. Beer may be possessed and consumed within a City park by any person or group which has been issued a consumption permit by the Clerk. Said permit shall state the person or group to whom issued; the park and area to which it applies; and the date and hours during which it is effective.
2. Permit holder(s) shall be responsible to ensure that no beer or other alcoholic beverage is dispensed to or consumed by any person(s) under legal age contrary to law.

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## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

50.01 Definitions

50.02 Nuisances Declared

50.03 Adult Establishments

50.04 Other Conditions

50.05 Nuisances Prohibited

50.06 Nuisance Abatement

50.07 Abatement of Nuisance by Written Notice

50.08 Municipal Infraction Abatement Procedure

### 50.01 DEFINITIONS.

1. “Abandoned building” means any building or portion of a building which has stood with an incomplete exterior shell for longer than two years or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:

A. Unsecured, or

B. Having readily apparent housing code or building code violations endangering the health, safety, or welfare of persons or property.

2. “Enforcement officer” means the housing officer or employees designated by the Mayor to enforce this chapter.

3. “Noxious substances” means substances, solid or fluid, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include, but not be limited to, any dead animal or portion thereof, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul, or stinking beef, pork, fish, offal, hides, skins, fat, grease, liquors, human, or animal excrement or manure.

4. “Nuisance” means 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)*

5. “Refuse” means any putrescible and non-putrescible and combustible and noncombustible waste, including paper, garbage, material resulting from the handling, processing, storage, preparation, serving, and consumption of food, vegetable, or animal matter, offal, rubbish, improperly handled plant waste such as tree trimmings or grass cuttings, ashes, incinerated residue, construction debris, and solid industrial and market wastes.

6. “Responsible party” means any person having possession or control of real or personal property, including, without limitation, any one or more of the following:

A. Agent;

B. Assignee or collector of rents;

C. Holder of a contract or deed;

D. Mortgagee or vendee in possession;

E. Receiver or executor or trustee;

F. Lessee;

- G. Other person, firm, or corporation exercising apparent control over a property.

#### **50.02 NUISANCES DECLARED.**

1. Refuse, Garbage, Noxious Substances, Hazardous Wastes, Junk, or Salvage Materials. Causing or suffering any refuse, garbage, noxious substances, hazardous wastes, junk, salvage material, or other offensive or disagreeable substances to be collected or to remain in any place to the prejudice of others or to be thrown, left, or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot vacant or occupied, or upon any pond or pool of water; except for:
  - A. Refuse deposited and stored in accordance with the provisions of this Code; County ordinances or regulations; or statutes of the State.
  - B. Compost piles less than four cubic yards established and maintained according to recognized gardening practices or greater than four cubic yards when established and maintained with written permission from the County Health Department.
  - C. Junk or salvage materials properly stored in a junk or salvage yard as may be permitted under this Code.
2. Weeds, Grass, and Plant Growth. All premises and exterior property shall be maintained free from all weeds, grass, and plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. This subsection shall not apply to trees, shrubs, cultivated flowers, gardens, and agricultural products.
3. Ditch, Drain, or Stormwater Detention Basin. Any ditch, drain, or watercourse which is now or hereafter may be constructed so as to prevent the surface and overflow water from the adjacent lands from entering and draining into and through the same. Any stormwater detention basin not maintained in an appropriate manner so as to allow its proper function.
4. Stagnant Water. Stagnant water standing on any property. Any property container or material kept in such condition that water can accumulate and stagnate.
5. Vermin Harborage. Conditions which are conducive to the harborage or breeding of vermin.
6. Vermin Infestations. Infestations of vermin such as rats, mice, skunks, snakes, bats, starlings, pigeons, bees, wasps, cockroaches, or flies.
7. Sanitary Sewer Facilities. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic systems, cesspools, and drain fields, which have failed or do not function properly or which are overflowing, leaking, or emanating odors. Septic tanks, cisterns, and cesspools which are abandoned or no longer in use unless they are emptied and filled with clean fill. Any vault, cesspool, or septic system which does not comply with the County Department of Health regulations.
8. Unoccupied or Unsecured Buildings. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

9. Dangerous Buildings or Structures.
10. Abandoned Buildings.
11. Hazards. Any hazardous thing or condition on the property which may contribute to injury of any person present on the property. Hazards include, but are not limited to, open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators or other appliances, or trapping devices.
  - A. Abandoning or otherwise leaving any refrigerator, ice box, or similar container, with doors that may become locked, objects with sharp points or edges, to remain outside of buildings on premises in the person's possession or control and which may be accessible to children and others or which could cause injury or harm to an invitee, permittee, or other individuals on the property.
  - B. Abandoning, or otherwise leaving unattended, items of junk, debris, equipment, parts of vehicles, or any other object which does not have a functional purpose or a decorative purpose.
12. Fire Hazards. Any thing or condition on the property which creates a fire hazard or which is in violation of the fire code, including the 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 it be in a building of fireproof construction.
13. Health Hazards. Any thing or condition on the property which creates a health hazard or which is in violation of any health or sanitation law.
14. Junkyard or Salvage Operations. All junkyard or salvage operations except as allowed by City permit.
15. Obstruction of Right-of-Way or Public Place. The obstruction or encumbering by fences, buildings, structures, signs, or otherwise of public streets, private ways, alleys, sidewalks, and commons, except as permitted by ordinance. Any use of a public street or sidewalk or any use of property abutting a public street or sidewalk, which causes large crowds of people to gather so as to obstruct pedestrian or vehicular traffic or other lawful use of streets or sidewalks except as permitted by ordinance.
16. Obstruction of View. Billboards, signboards, advertising signs, and fencing whether erected and constructed on public or private property, or vehicles, trees, hedges, or other obstructions which so obstruct and impair the view of any portion or part of a public street, highway, or alley as to render dangerous the use thereof.
17. Inoperable or Obsolete Vehicle. The storage, parking, leaving, or permitting the storage, parking, or leaving of an inoperable or obsolete vehicle upon public or private property within the City for a period in excess of seven days, unless excepted herein. This subsection shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a junkyard, or auto and truck oriented use operated in the appropriate zone, pursuant to zoning laws.
18. Unlawful Sale, Use, or Manufacture of Intoxicating Liquors. Any building or place in or upon which the unlawful manufacture or sale or keeping with intent to sell, use, or give away of intoxicating liquors is carried on or continued or exists.

19. Vehicle Parked on Private Property without Authorization. The parking of motor vehicles upon private property without the consent of the property owner or responsible party.
20. Mud, Dirt, Gravel, and Other Debris. The depositing or allowing the depositing of any mud, dirt, gravel, or other debris.
21. Building Construction Sites. Building construction sites maintained in violation of the building code.
22. Noncompliance with a Pretreatment Standard. Noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user.
23. Offensive Smells. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
24. Water Pollution. The 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.
25. Air Pollution. The emission of dense smoke, noxious fumes, or fly ash.
26. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See Chapter 152)**
27. Mobile Homes or House Trailers. Mobile homes or house trailers located outside of a mobile home park or trailer camp without a special permit as provided in Section 146.04.
28. 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, or places resorted to by persons using controlled substances in violation of the law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.
29. Playing Golf in Public Parks. The practice or playing of golf involving clubs and the striking of golf balls within the confines of any public park, except for putting.
30. High Intensity Lights in Residential Areas. Unless otherwise authorized or approved by the City in writing, any light located on private residential property which is mounted higher than 25 feet from the ground or which is greater than 2,000 lumens and not equipped with cut-off shields or light reflectors and refractors to direct light downward, thereby resulting in direct light falling beyond the property line.
31. Loud and Raucous Noise. Loud and raucous noise in the vicinity of any residence or public building of such character, intensity, and duration as to unreasonably interfere with the comfort and enjoyment of property or cause unreasonable distress to the occupants thereof, except as permitted by law.

### **50.03 ADULT ESTABLISHMENTS.**

1. As used in this section, “adult establishment” means any business that provides nude or topless dancing or operates any other adult-oriented business.

2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:

A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

*(Code of Iowa, Sec. 657.12)*

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Animal Nuisances (**See Section 55.20**)
3. Abandoned Property (**See Chapter 58**)
4. Storage and Disposal of Solid Waste (**See Chapter 105**)
5. Dangerous Buildings (**See Chapter 145**)
6. Trees (**See Chapter 151**)
7. Dutch Elm Disease Control (**See Chapter 152**)

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

*(Code of Iowa, Sec. 657.3)*

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
  - A. Description of Nuisance. A description of what constitutes the nuisance.
  - B. Location of Nuisance. The location of the nuisance.
  - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
  - D. Reasonable Time. A reasonable time within which to complete the abatement.
  - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.

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

5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

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

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† **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.



6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

*(Code of Iowa, Sec. 364.13)*

8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

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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 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.12 Owner's Duty
55.02 Animal Neglect	55.13 Confinement
55.03 Livestock Neglect	55.14 At Large: Impoundment
55.04 Abandonment of Cats and Dogs	55.15 Disposition of Animals
55.05 Livestock	55.16 Impounding Costs
55.06 Animals Running At Large	55.17 Pet Awards Prohibited
55.07 Penalty for Animal At Large Violation	55.18 Tampering with A Rabies Vaccination Tag
55.08 Damage or Interference	55.19 Tampering with An Electronic Handling Device
55.09 Annoyance or Disturbance	55.20 Animal Nuisance
55.10 Vicious Dogs	55.21 Temporary Permit
55.11 Rabies Vaccination	

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

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

*(Code of Iowa, Sec. 162.2)*

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

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

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

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

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

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

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

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

7. "Enclosed" mean close in or fenced off.

8. “Fair” means any of the following:  
(*Code of Iowa, Sec. 717E.1*)
- A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
  - B. An exhibition of agricultural or manufactured products.
  - C. An event for operation of amusement rides or devices or concession booths.
9. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.  
(*Code of Iowa, Sec. 717E.1*)
10. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.  
(*Code of Iowa, Sec. 717.B1*)
11. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry which includes but not limited to include chickens and ducks.  
(*Code of Iowa, Sec. 717.1*)
12. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
13. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.  
(*Code of Iowa, Sec. 717E.1*)
14. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.  
(*Code of Iowa, Sec. 162.2*)
15. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.  
(*Code of Iowa, Sec. 162.2*)
16. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.  
(*Code of Iowa, Sec. 717.B1*)

**55.02 ANIMAL NEGLECT.**

1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal's welfare:

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

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

2. This section does not apply to any of the following:

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

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

*(Code of Iowa, Sec. 717.2)*

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

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

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

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

1. Only six chickens will be allowed within City limits in a confined area. This does not include roosters.

**55.06 ANIMALS RUNNING AT LARGE.** It is unlawful for any owner to allow an animal to be or to run at large within the City limits.

**55.07 PENALTY FOR ANIMAL AT LARGE VIOLATION.** Any animal found at large shall be deemed to be so with the permission or with the sufferance of its owner. For allowing the animal to run at large, the owner shall be fined in the sum of \$25.00. Proof of rabies vaccination will be required in this situation before the animal is returned to its rightful owner.

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

**55.09 ANNOYANCE OR DISTURBANCE.** It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by running after or chasing persons, bicycles, automobiles, or other vehicles.



**55.10 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.

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

*(Code of Iowa, Sec. 351.33)*

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

*(Code of Iowa, Sec. 351.38)*

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

*(Code of Iowa, Sec. 351.39)*

**55.14 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.

**55.15 DISPOSITION OF ANIMALS.** When an animal has been apprehended and impounded, written notice shall be provided to the owner within two days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. 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 fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

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

**55.16 IMPOUNDING COSTS.** Impounding costs are \$10.00 plus boarding costs.

*(Code of Iowa, Sec. 351.37)*

**55.17 PET AWARDS PROHIBITED.**

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
  - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
  - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting, or fishing, including but not limited to the Iowa Sportsmen's Federation.

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

(Code of Iowa, Sec. 351.45)

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

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

*(Code of Iowa, Sec. 351.46)*

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

**55.20 ANIMAL NUISANCE.** The following acts and circumstances are hereby declared to be nuisances and are therefore prohibited.

1. The keeping of an animal on private property in such numbers or in such a manner that allows for the accumulation of liquid or solid waste of such animals, which becomes a detriment to or menace to the health of an animal, or an annoyance to humans.
2. Allowing any dog, cat, or animal to bay, bark, whine or howl or make a sound of any kind or nature for prolonged periods in such manner as to unreasonably disturb the peace and quiet whether the animal is on or off the owner's premises.
3. Allowing an animal to cause any damage or defilement to public or private property.
4. Harboring more than four animals on one property in such a manner that it is detrimental to public or private property, the peace and comfort of the neighborhood, or causes a menace or detriment to the public or public health.

**55.21 TEMPORARY PERMIT.** In the event an individual has an animal which will be used to compete in a competition there will be an application that may be obtained at City Hall for the owner to complete and will then be submitted to the Council for approval. Said permit will have a time restriction subject to the Council's discrepancy.

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## CHAPTER 57

# DANGEROUS AND VICIOUS ANIMALS

### 57.01 Definitions

### 57.02 Keeping of Dangerous Animals Prohibited

### 57.03 Keeping of Vicious Animals Prohibited

### 57.04 Seizure, Impoundment, and Disposition

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

1. “Dangerous animal” means: †
  - A. Badgers, wolverines, weasels, skunk and mink.
  - B. Raccoons.
  - C. Bats.
  - D. Scorpions.
2. “Vicious animal” means any of the following:
  - A. Any animal, except for a dangerous animal as listed above, that has attacked, bitten, or clawed a person while running at large and the attack was unprovoked; or,
  - B. Any animal, except for a dangerous animal as listed above, that has exhibited vicious tendencies in present or past conduct, including such that said animal:
    - (1) Has attacked, bitten, or clawed a person causing injury; or,
    - (2) Has bitten more than one person during the animal’s lifetime; or,
    - (3) Has bitten one person on two or more occasions during the animal’s lifetime; or,
    - (4) Has attacked any domestic animal or fowl without provocation, causing injury or death while off the property of the owner.

**57.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED.** No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City.

**57.03 KEEPING OF VICIOUS ANIMALS PROHIBITED.** No person shall keep, shelter, or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a

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† **EDITOR’S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, Paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog," or words of similar import, and the owner of such premises shall inform the Mayor or peace officer that a guard dog is on duty at said premises.

#### **57.04 SEIZURE, IMPOUNDMENT, AND DISPOSITION.**

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor

or peace officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed (or of the Council after appeal) constitutes a simple misdemeanor.

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## CHAPTER 58

# ABANDONED PROPERTY

**58.01 Abandoned Property Declared Nuisance**  
**58.02 Removal of Abandoned Property**

**58.03 Custody of Abandoned Property; Expenses**  
**58.04 Disposition of Abandoned Property**

**58.01 ABANDONED PROPERTY DECLARED NUISANCE.** No person shall abandon, leave, or place in any street, alley, or public place property of any kind. Any property so abandoned, left, or placed by any person on any private property is declared to be a public nuisance and an obstruction, and a menace to the public welfare, comfort, safety, and health.

**58.02 REMOVAL OF ABANDONED PROPERTY.** The City Administrator may look after the removal of the obstruction and abatement of such nuisance as soon as possible after receiving a report.

**58.03 CUSTODY OF ABANDONED PROPERTY; EXPENSES.** The City Administrator may take possession of any article of property abandoned, left, or placed on public or private property, under the provisions of Sections 58.01 and 58.02 and if the same is believed to have any value to keep it and attempt to find the owner thereof. The City Administrator shall maintain a place to keep any such article until it shall be claimed or otherwise disposed of. The City shall have a lien thereon for the reasonable expenses incurred and value or cost of the time and effort necessary in taking, removing, and storing the article, and for the value of the storage, and may retain possession until any and all liens are discharged.

**58.04 DISPOSITION OF ABANDONED PROPERTY.** If any abandoned property as referred to in Sections 58.01, 58.02, and 58.03 has been or is kept for 90 days or more without being claimed, it may be disposed of by the City Administrator. Should the City Administrator elect to sell the property, it may be sold 10 days after notice of the proposed sale has been given by one publication in any newspaper published in the City. The City may be a bidder at the sale. If at any such sale an amount is bid in excess of the charges or lien of the City, the excess shall be placed in the general fund.

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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 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

**60.01 TITLE.** Chapters 60 through 70 may be known and cited as the “West Point Traffic Code” (and are referred to herein as the “Traffic Code”).

**60.02 DEFINITIONS.** Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are hereby 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:

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

2. “MPH” means miles per hour.

3. “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.

4. “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.

5. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

6. “Pedestrian” means a person afoot or a person using a pedestrian conveyance.  
(Code of Iowa, Sec. 321.1(51))

7. “Pedestrian conveyance” means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.

(Code of Iowa, Sec. 321.1(51A))

8. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, Sec. 321.1(63))

9. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

*(Code of Iowa, Sec. 321.1(70))*

10. “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.

11. “Stop” means when required, the complete cessation of movement.

12. “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.

13. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.

*(Code of Iowa, Sec. 321.1(78))*

14. “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.

15. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. Vehicle does not include:

A. Any device moved by human power, including a low-speed electric bicycle.

B. Any device used exclusively upon stationary rails or tracks.

C. Any personal delivery device operated pursuant to Chapter 321O of the *Code of Iowa*.

D. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

E. Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

*(Code of Iowa, Sec. 321.1(90))*

**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 Chief.

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

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

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

**60.05 REPORTS OF TRAFFIC ACCIDENTS.** The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the State Department of Transportation (DOT). A copy of this report shall be filed with the City for the

confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the *Code of Iowa*.

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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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] and 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 this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

*(Code of Iowa, Sec. 372.13[4] and 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 and 321.231A 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 Play Streets Designated  
62.03 Vehicles on Sidewalks  
62.04 Clinging to Vehicle

62.05 Quiet Zones  
62.06 Obstructing View at Intersections  
62.07 Milling

**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 321.17 – Misdemeanor to violate registration provisions.
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 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Limitation on liability; penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed; operation of commercial vehicles.
15. Section 321.174A – Operation of motor vehicle with expired license.
16. Section 321.180 – Instruction permits, commercial learner’s permits, and chauffeur’s instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restrictions on licenses; penalty.
19. Section 321.194 – Special minors’ restricted license.
20. Section 321.208A – Operation in violation of out-of-service order; penalties.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card; penalty.

22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.
24. Section 321.218 – Operating without valid driver’s license or when disqualified; penalties.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – Driver’s license inspection for motor vehicle rental.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles, highway use.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid; leaving scene of personal injury accident.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container in motor vehicles, drivers.

51. Section 321.284A – Open container in motor vehicles, passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.
54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.305 – One-way roadways and rotary traffic islands.
61. Section 321.306 – Roadways laned for traffic.
62. Section 321.307 – Following too closely.
63. Section 321.309 – Towing.
64. Section 321.310 – Towing four-wheel trailers.
65. Section 321.312 – Turning on curve or crest of grade.
66. Section 321.313 – Starting parked vehicle.
67. Section 321.314 – When signal required.
68. Section 321.315 – Signal continuous.
69. Section 321.316 – Stopping.
70. Section 321.317 – Signals by hand and arm or signal device.
71. Section 321.318 – Method of giving hand and arm signals.
72. Section 321.319 – Entering intersections from different highways.
73. Section 321.320 – Left turns; yielding.
74. Section 321.321 – Entering through highways.
75. Section 321.322 – Vehicles entering stop or yield intersection.
76. Section 321.323 – Moving vehicle backward on highway.
77. Section 321.323A – Approaching certain stationary vehicles.
78. Section 321.324 – Operation on approach of emergency vehicles.
79. Section 321.324A – Funeral processions.
80. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
81. Section 321.330 – Use of crosswalks.
82. Section 321.332 – White canes restricted to blind persons.
83. Section 321.333 – Duty of drivers.
84. Section 321.340 – Driving through safety zone.

85. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
86. Section 321.342 – Stop at certain railroad crossings; posting warning.
87. Section 321.343 – Certain vehicles must stop.
88. Section 321.344 – Heavy equipment at crossing.
89. Section 321.344B – Immediate safety threat; penalty.
90. Section 321.354 – Stopping on traveled way.
91. Section 321.359 – Moving other vehicle.
92. Section 321.362 – Unattended motor vehicle.
93. Section 321.363 – Obstruction to driver’s view.
94. Section 321.364 – Preventing contamination of food by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully-controlled access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – Discharging pupils, stopping requirements; penalties.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required.
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles, motorized bicycles, and all-terrain vehicles.
110. Section 321.387 – Rear lamps.
111. Section 321.388 – Illuminating plates.
112. Section 321.389 – Reflector requirement.
113. Section 321.390 – Reflector requirements.
114. Section 321.392 – Clearance and identification lights.
115. Section 321.393 – Color and mounting.
116. Section 321.394 – Lamp or flag on projecting load.
117. Section 321.395 – Lamps on parked vehicles.

118. Section 321.398 – Lamps on other vehicles and equipment.
119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.
122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.408 – Back-up lamps.
125. Section 321.409 – Mandatory lighting equipment.
126. Section 321.415 – Required usage of lighting devices.
127. Section 321.417 – Single-beam road-lighting equipment.
128. Section 321.418 – Alternate road-lighting equipment.
129. Section 321.419 – Number of driving lamps required or permitted.
130. Section 321.420 – Number of lamps lighted.
131. Section 321.421 – Special restrictions on lamps.
132. Section 321.422 – Red light in front, rear lights.
133. Section 321.423 – Flashing lights.
134. Section 321.430 – Brake, hitch, and control requirements.
135. Section 321.431 – Performance ability.
136. Section 321.432 – Horns and warning devices.
137. Section 321.433 – Sirens, whistles, air horns, and bells prohibited.
138. Section 321.434 – Bicycle sirens or whistles.
139. Section 321.436 – Mufflers, prevention of noise.
140. Section 321.437 – Mirrors.
141. Section 321.438 – Windshields and windows.
142. Section 321.439 – Windshield wipers.
143. Section 321.440 – Restrictions as to tire equipment.
144. Section 321.441 – Metal tires prohibited.
145. Section 321.442 – Projections on wheels.
146. Section 321.444 – Safety glass.
147. Section 321.445 – Safety belts and safety harnesses; use required.
148. Section 321.446 – Child restraint devices.
149. Section 321.449 – Motor carrier safety rules.
150. Section 321.449A – Rail crew transport drivers.
151. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

- 152. Section 321.450 – Hazardous materials transportation regulations.
- 153. Section 321.454 – Width of vehicles.
- 154. Section 321.455 – Projecting loads on passenger vehicles.
- 155. Section 321.456 – Height of vehicles.
- 156. Section 321.457 – Maximum length.
- 157. Section 321.458 – Loading beyond front.
- 158. Section 321.460 – Spilling loads on highways.
- 159. Section 321.461 – Trailers and towed vehicles.
- 160. Section 321.462 – Drawbars and safety chains.
- 161. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 162. Section 321.465 – Weighing vehicles and removal of excess.
- 163. Section 321.466 – Increased loading capacity; reregistration.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

**62.07 MILLING.** It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

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## CHAPTER 63

# SPEED REGULATIONS

**63.01 General**

**63.02 State Code Speed Limits**

**63.03 Parks, Cemeteries, and Parking Lots**

**63.04 Special Speed Zones**

**63.05 Minimum Speed**

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

*(Code of Iowa, Sec. 321.285)*

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

1. Business District – 20 MPH.
2. Residence or School District – 25 MPH.
3. Suburban District – 45 MPH.

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

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

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

*(Code of Iowa, Sec. 321.290)*

1. Special 20 MPH Speed Zones. A speed in excess of 20 MPH is unlawful on any of the following designated streets or parts thereof.
  - A. 5<sup>th</sup> Street (County Highway X23) from D Avenue (Iowa 103) extending south to a section parallel with Bel Air Drive (which does not intersect).
2. Special 25 MPH Speed Zones. A speed in excess of 25 MPH is unlawful on any of the following designated streets or parts thereof.
  - A. D Avenue (Iowa 103) from the north-south alley in Block 2 west to the north-south alley in Block 8.

- B. 5<sup>th</sup> Street (County Highway X23) from section parallel with Bel Air Drive (which does not intersect) extending south to the north entrance of South Park.
  - C. From Block 3 – Section 9 of D Avenue (Iowa 103) to east of City limits.
3. Special 35 MPH Speed Zones. A speed in excess of 35 MPH is unlawful on any of the following designated streets or parts thereof.
- A. D Avenue (Iowa 103) from north-south alley in Block 8 to west corporate limits.
  - B. 5<sup>th</sup> Street (County Highway X23) West Point Road from F Avenue to the north corporate limits.
  - C. 5<sup>th</sup> Street (County Highway X23) from the north entrance of South Park extending south to the south entrance of South Park.
  - D. D Avenue (Iowa 103) from the north-south alley in Block 2 to the north-south alley in Block 39.
4. Special 45 MPH Speed Zones. A speed in excess of 45 MPH is unlawful on any of the following designated streets or parts thereof.
- A. 5<sup>th</sup> Street (County Highway X23) from the south entrance of South Park to the south corporate limits.
  - B. D Avenue (Iowa 103) from the north-south alley in Block 39 to the east corporate limits.
  - C. D Avenue (Iowa 103) from the west line of Block 33 to the west corporate limits.

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

*(Code of Iowa, Sec. 321.294)*

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## CHAPTER 64

# TURNING REGULATIONS

### 64.01 Turning at Intersections

### 64.02 U-Turns

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

*(Code of Iowa, Sec. 321.311)*

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

The 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 above be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs.

**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])*

- NONE -

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

65.06 Stop Before Crossing Sidewalk  
65.07 Stop When Traffic is Obstructed  
65.08 Pedestrians' Right-of-Way  
65.09 Official Traffic Controls

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

*(Code of Iowa, Sec. 321.345)*

1. 4<sup>th</sup> Street, from D Avenue (Iowa 103) to the north corporate limits.
2. 5<sup>th</sup> Street (County Highway X23), from D Avenue (Iowa 103) to the south corporate limits.
3. 7<sup>th</sup> Street (County Highway X23), from D Avenue (Iowa 103) to the north corporate limits.
4. D Avenue (Iowa 103), from the east corporate limits to the west corporate limits.

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

*(Code of Iowa, Sec. 321.345)*

1. 2<sup>nd</sup> Street. Vehicles traveling north on 2<sup>nd</sup> Street shall stop at D Avenue (Iowa 103), E Avenue, and F Avenue.
2. 2<sup>nd</sup> Street. Vehicles traveling south on 2<sup>nd</sup> Street shall stop at C Avenue, D Avenue (Iowa 103), and E Avenue.
3. 3<sup>rd</sup> Street. Vehicles traveling on 3<sup>rd</sup> Street shall stop at D Avenue (Iowa 103), E Avenue, and F Avenue.
4. 3<sup>rd</sup> Street. Vehicles traveling south on 3<sup>rd</sup> Street shall stop at C Avenue, D Avenue (Iowa 103), and E Avenue.
5. 4<sup>th</sup> Street. Vehicles traveling south on 4<sup>th</sup> Street shall stop at C Avenue, D Avenue (Iowa 103), and E Avenue.
6. 5<sup>th</sup> Street (County Highway X23). Vehicles traveling north on 5<sup>th</sup> Street (County Highway X23) shall stop at C Avenue, D Avenue (Iowa 103), E Avenue, and H Avenue.
7. 5<sup>th</sup> Street (County Highway X23). Vehicles traveling south on 5<sup>th</sup> Street (County Highway X23) shall stop at C Avenue, D Avenue (Iowa 103), and E Avenue.
8. 6<sup>th</sup> Street. Vehicles traveling north on 6<sup>th</sup> Street shall stop at C Avenue, D Avenue (Iowa 103), E Avenue, and G Avenue.

9. 6<sup>th</sup> Street. Vehicles traveling south on 6<sup>th</sup> Street shall stop at Iowa Joe Street, C Avenue, D Avenue (Iowa 103), and E Avenue.
10. 7<sup>th</sup> Street. Vehicles traveling south on 7<sup>th</sup> Street (County Highway X23) shall stop at C Avenue and D Avenue (Iowa 103).
11. 8<sup>th</sup> Street. Vehicles traveling on 8<sup>th</sup> Street shall stop at C Avenue and D Avenue (Iowa 103).
12. Bel-Air Drive. Vehicles traveling east on Bel-Air Drive shall stop at 8<sup>th</sup> Street.
13. Bel-Air Drive. Vehicles traveling west on Bel-Air Drive shall stop at 6<sup>th</sup> Street.
14. C Avenue. Vehicles traveling west on C Avenue shall stop at 8<sup>th</sup> Street, 5<sup>th</sup> Street (County Highway X23), 4<sup>th</sup> Street, and 2<sup>nd</sup> Street.
15. Country Lane Road. Vehicles traveling east on Country Lane Road shall stop at 5<sup>th</sup> Street (County Highway X23).
16. E Avenue. Vehicles traveling on E Avenue shall stop at 7<sup>th</sup> Street (County Highway X23) and 4<sup>th</sup> Street.
17. F Avenue Extension. Vehicles traveling east on F Avenue Extension shall stop at 7<sup>th</sup> Street (County Highway X23).
18. F Avenue. Vehicles traveling on F Avenue shall stop at 5<sup>th</sup> Street (County Highway X23), 6<sup>th</sup> Street, and 4<sup>th</sup> Street.
19. Fairlane Drive. Vehicles traveling east on Fairlane Drive shall stop at 8<sup>th</sup> Street.
20. Fairlane Drive. Vehicles traveling west on Fairlane Drive shall stop at Sixth Street.
21. G Avenue. Vehicles traveling west on G Avenue shall stop at 5<sup>th</sup> Street (County Highway X23).
22. Iowa Joe Street. Vehicles traveling east on Iowa Joe Street shall stop at 8<sup>th</sup> Street.
23. Iowa Joe Street. Vehicles traveling west on Iowa Joe Street shall stop at 5<sup>th</sup> Street (County Highway X23).
24. South Park. All vehicles traveling west on both entrances to South Park shall stop at 5<sup>th</sup> Street (County Highway X23).
25. Starlite Drive. Vehicles traveling east on Starlite Drive shall stop at 8<sup>th</sup> Street.
26. Starlite Drive. Vehicles traveling west on Starlite Drive shall stop at 6<sup>th</sup> Street.

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

*(Code of Iowa, Sec. 321.345)*

1. 4<sup>th</sup> Street and C Avenue. All vehicles approaching the intersection of 4<sup>th</sup> Street and C Avenue shall stop before entering such intersection.
2. 5<sup>th</sup> Street (County Highway X23) and C Avenue. All vehicles approaching the intersection of 5<sup>th</sup> Street (County Highway X23) and C Avenue shall stop before entering such intersection.

3. 8<sup>th</sup> Street and C Avenue. All vehicles approaching the intersection of 8<sup>th</sup> Street and C Avenue shall stop before entering such intersection.

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

*(Code of Iowa, Sec. 321.345)*

- NONE -

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

*(Code of Iowa, Sec. 321.249)*

1. Intersection of D Avenue (Iowa 103) and the north-south alley in Block 1.

**65.06 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)*

**65.07 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.

**65.08 PEDESTRIANS' RIGHT-OF-WAY.** 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 so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

*(Code of Iowa, Sec. 321.327)*

**65.09 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)*

- NONE -

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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

**66.01 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 and 472)*

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

*(Code of Iowa, Sec. 321.473 and 321E.2)*

**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 and 475)*

- NONE -

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**CHAPTER 67**  
**PEDESTRIANS**

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

**67.03 Pedestrian Crossing**

**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)*

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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. Vehicles in the north-south alley in Block 1 in the City may only travel in a southerly direction.

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## CHAPTER 69

# PARKING REGULATIONS

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

69.07 Persons with Disabilities Parking  
69.08 No Parking Zones  
69.09 Parking Limited to One Hour  
69.10 Limited Truck Parking  
69.11 Limited Parking Zones

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. 4<sup>th</sup> Street on both sides from D Avenue (Iowa 103) to E Avenue.
2. 4<sup>th</sup> Street on the west side south of St. Mary's Church.
3. 5<sup>th</sup> Street (County Highway X23) on both sides from D Avenue (Iowa 103) to E Avenue.
4. D Avenue (Iowa 103) on the north side from 4<sup>th</sup> Street to 5<sup>th</sup> Street (County Highway X23).
5. E Avenue on both sides from 4<sup>th</sup> Street to 5<sup>th</sup> Street (County Highway X23).

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

*(Code of Iowa, Sec. 321.361)*

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

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing, or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

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

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

*(Code of Iowa, Sec. 321.358[11])*

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. 4<sup>th</sup> Street on the west side from south of St. Mary's Church to C Avenue.
2. 5<sup>th</sup> Street (County Highway X23) on the east side from the south line of D Avenue (Iowa 103) to a point 36 feet south of the south line of D Avenue (Iowa 103).
3. 5<sup>th</sup> Street (County Highway X23) on the west side from the south line of D Avenue (Iowa 103) to a point 20 feet south of the south line of D Avenue (Iowa 103).
4. 7<sup>th</sup> Street (County Highway X23) on both the east and west sides from the north line of E Avenue to a point 128 feet north of the north line of E Avenue.
5. 7<sup>th</sup> Street (County Highway X23) on the west side from the north line of D Avenue (Iowa 103) to a point 120 feet north of the north line of D Avenue (Iowa 103).
6. Alley in Block 33 on the north half of the north-south alley in Block 33.
7. D Avenue (Iowa 103) on both sides from the east corporate limits to the west corporate limits, except from 4<sup>th</sup> Street to 5<sup>th</sup> Street (County Highway X23) on the north side where diagonal parking is permitted.
8. The north side of the south, east-west access street to South Park.

**69.09 PARKING LIMITED TO ONE HOUR.** It is unlawful for any person to park a motor vehicle for a period of time exceeding one hour, on the days and between hours of the days set forth hereafter on any of the streets or portions of streets as set forth hereafter:

1. 5<sup>th</sup> Street (County Highway X23) on the east side, from E Avenue south to the center of the block, on Saturdays from noon until 6:00 p.m.
2. D Avenue (Iowa 103) on the north side, from 5<sup>th</sup> Street (County Highway X23) west to the center of the block, on Saturdays from noon until 6:00 p.m.



**69.10 LIMITED TRUCK PARKING.**

1. No semi-trailer shall be parked on any street or right-of-way for more than two hours except when loading or unloading, providing services, or making emergency repairs.
2. A licensed truck tractor may be parked in front of an owner's or driver's residence or off-street for a period of up to 72 hours. Any such truck tractor is limited to a single unit.
3. Any truck, semi-trailer or similar vehicle which is found to be in violation of the provisions of this section and which creates a safety hazard shall be considered abandoned property pursuant to the provisions of Chapter 58 and may be removed and stored and disposed of pursuant to the provisions of Chapter 58.
4. Any person violating the provisions of this section shall, after two written warnings delivered personally, be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$50.00, plus court costs.

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

1. C Avenue, on the south side in front of Holy Trinity School buildings from 7:00 a.m. to 4:00 p.m. on school days.
2. E Avenue, on the south side of E Avenue on the north side of the City park from 8:00 a.m. to 8:30 a.m., 11:00 a.m. to noon, and 3:00 p.m. to 4:00 p.m. on school days.

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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, or issue a uniform citation and complaint utilizing a State-approved computerized device.

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

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine according to the following schedule payable at the office of the Clerk. If such fine is not paid within 30 days, it shall be increased by \$5.00. The simple notice of a fine for improper use of a persons with disabilities parking permit is \$100.00. Failure to pay the fine shall be grounds for the filing of a complaint in District Court.

*(Code of Iowa, Sec. 321.236(1a) and 321L.4(2))*

1. Prohibited parking ..... \$2.00
2. Improper parking ..... \$1.00
3. Double parking ..... \$1.00
4. Parked at fire plug ..... \$1.00
5. Yellow line ..... \$1.00
6. Blocking driveway ..... \$1.00

**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.**

1. 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:

A. 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])*

B. 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])*

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

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

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

2. 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.

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## CHAPTER 75

# ATVS, UTVS, AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of ATVs and UTVs

75.06 Negligence

75.07 Accident Reports

75.08 Equipment

75.09 Hours of Operation

75.10 Speed

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

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

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

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

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

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

3. “Off-road utility vehicle” or “UTV” 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” or “UTV” 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 UTV is also subject to the provisions of this chapter governing the operation of ATVs.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or

less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

*(Code of Iowa, Ch. 321G and 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, included here:

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

- A. 2<sup>nd</sup> Street, from C Avenue to G Avenue.
- B. 5<sup>th</sup> Street (County Highway X23), from G Avenue north to corporate limits.
- C. 9<sup>th</sup> Street, from D Avenue (Iowa 103) to C Avenue.
- D. C Avenue C, from 9<sup>th</sup> Street to 2<sup>nd</sup> Street.
- E. D Avenue (Iowa 103), from 2<sup>nd</sup> Street west to corporate limits.
- F. D Avenue (Iowa 103), from 9<sup>th</sup> Street east to the corporate limits.
- G. G Avenue, from 2<sup>nd</sup> Street to 4<sup>th</sup> Street.

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

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

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

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

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground, or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

**75.05 OPERATION OF ATVS AND UTVS.** The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on roadways or highways in accordance with Section 321.234A of the *Code of Iowa*. A City may regulate the operation of registered ATVs and UTVs and may designate streets under the jurisdiction of the City within its corporate limits, and two-lane primary and secondary road extensions in the City, which may be used for the operation of such vehicles. In designating such streets, the City may authorize ATVs and UTVs to stop at service stations or convenience stores along a designated street.

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

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

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

3. Railroad Right-of-Way. ATVs and UTVs shall not be operated on an operating railroad right-of-way. An ATV or UTV 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 and UTVs 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 and UTVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

6. Direct Crossing. An ATV or UTV may make a direct crossing of a highway that is not part of the interstate road system provided all of the following occur:

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

- A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
  - B. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
  - C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
  - D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
  - E. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.
7. Age. ATVs and UTVs may be operated by persons possessing a valid operator's license, and at least 16 years of age, or any person with a valid, State issued "instructional permit" and accompanied by an adult possessing a valid driver's license (in accordance with State laws).
8. Passengers.

A. All riders in the ATV or UTV must remain seated at all times.

B. No more than two adult people may ride in the front seat of an ATV or UTV and not more than two adult people may ride in the back seat of an ATV or UTV, if said seat exists. While operating, any rider must be seated on the seat and no part of the body of any rider will extend beyond the sides of the ATV and UTV. Children must be accompanied by an adult driver and must follow all requirements of this section except the capacity limits as long as all children are seated on the seat and no part of the body of the child extends beyond the sides of the ATV and UTV.

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

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

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

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



**75.08 EQUIPMENT.** ATVs and UTVS operated upon City streets shall be equipped with a minimum of the following safety features:

1. A safety flag, the top of which shall be a minimum of five feet from the ground level, and a standardized slow-moving vehicle placard.
2. Adequate brakes.
3. Appropriate noise control device such as a proper muffler.

**75.09 HOURS OF OPERATION.** Snowmobiles may be operated on City streets only for emergency purposes and if equipped with proper lighting. They are not allowed to be operated on City streets for recreation or pleasure. Snowmobiles are prohibited on streets during inclement weather when visibility is reduced or impaired by weather, smoke, fog, or other conditions or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of 500 feet.

**75.10 SPEED.** No ATV or UTV shall be operated on any street at a speed greater than 25 MPH.

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## CHAPTER 76

### BICYCLE REGULATIONS

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

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.397)*

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

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

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

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## CHAPTER 78

# GOLF CARTS

78.01 Purpose	78.06 Hours of Operation
78.02 Operation of Golf Carts Permitted	78.07 Speed
78.03 Unlawful Operation	78.08 Permits
78.04 Equipment	78.09 Accident Reports
78.05 Operation Regulations	

**78.01 PURPOSE.** The purpose of this chapter is to permit the operation of golf carts on streets in the City as authorized by Section 321.247 of the *Code of Iowa*. This chapter applies whenever a golf cart is operated on any street or alley.

**78.02 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon the City streets of the City by persons possessing a valid operator's license, and at least 16 years of age, or any person with a valid, State issued "instructional permit" and accompanied by an adult possessing a valid driver's license (in accordance with Iowa laws). Golf cart operators shall observe all State and local traffic control regulations and devices.

**78.03 UNLAWFUL OPERATION.** No golf carts shall be operated on or parked upon City sidewalks, or any City park property (except park roadways and parking areas). No golf carts shall be operated while under the influence of intoxicating beverages, narcotics, or habit-forming drugs, and shall not permit open containers of the same in or on the vehicle. No person shall operate a golf cart in a careless, reckless, or negligent manner endangering the person of another or causing injury or damage to same. No golf cart shall be operated upon that portion of the street located between the curb line and the sidewalk or property line, referred to as the "right-of-way" except for the purposes of crossing the same to a public street upon which operation is authorized by this article. No golf cart shall be operated upon private property without the express consent of the owner thereof. No golf cart shall be operated in a manner which violates Chapter 321 of the *Code of Iowa*, which shall be and is adopted as applicable to the operation of golf carts in the City as are all sections of the Code concerning the operation of motor vehicles.

**78.04 EQUIPMENT.** Golf carts operated upon City streets shall be equipped with a minimum of the following safety features:

1. A safety flag, the top of which shall be a minimum of five feet from the ground level, and a standardized slow-moving vehicle placard.
2. Adequate brakes.
3. Appropriate noise control device such as a proper muffler.

**78.05 OPERATION REGULATIONS.** The following regulations apply to the operation of a golf cart within the City:

1. Any operator of a golf cart must have a valid operator's license and be at least 16 years of age.
2. All riders in the golf cart must remain seated at all times.

3. No more than two adult people may ride in the front seat of a golf cart and not more than two adult people may ride in the back seat of a golf cart, if said seat exists. While operating, any rider must be seated on the seat and no part of the body of any rider will extend beyond the sides of the golf cart. Children must be accompanied by an adult driver and must follow all requirements of this subsection except the capacity limits as long as all children are seated on the seat and no part of the body of the child extends beyond the sides of the golf cart.

**78.06 HOURS OF OPERATION.** Golf carts may be operated on City streets only between sunrise and sunset, unless being operated for emergency purposes, and equipped with proper lighting. Golf carts are prohibited on streets during inclement weather when visibility is reduced or impaired by weather, smoke, fog, or other conditions or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of 500 feet.

**78.07 SPEED.** No golf cart shall be operated on any street at a speed greater than 25 MPH.

**78.08 PERMITS.** No person shall operate a golf cart on any public street or alley, for any purpose, unless the operator possesses a City permit to operate such vehicle on City streets, issued by the Clerk. Golf cart owners not living in the City, but frequently riding such vehicles in the City must also purchase a permit. Owners may apply for a permit from the Clerk on forms provided by the City.

The Clerk shall not issue a permit until the owner or operator has provided the following:

1. Evidence showing that the operator is at least 16 years of age and possesses a valid driver's license.
2. Proof of liability insurance covering operation of golf carts on City streets in the amount required by the *Code of Iowa*.

All permits shall be issued for a specific golf cart. Permit holders will be issued a permit sticker to affix to the left side rear fender or similar component. Registration stickers are not transferrable.

The fee for such permits shall be \$25.00 and are valid for the life of the golf cart or until such vehicle is sold, traded, retired, or no longer associated with the permit holder.

The permit may be suspended or revoked by the Police Chief or the Public Safety Board upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund of the permit fee. The permit will be revoked for a period of one year.

The operation of an unregistered golf cart upon a City street, or other violations of this chapter, shall be a simple misdemeanor. The owner of a golf cart shall be liable and may be charged with any offense committed by a minor operator of the owner's golf cart.

**78.09 ACCIDENT REPORTS.** Whenever a golf cart is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within 48 hours, in accordance with State law.

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

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## CHAPTER 79

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

### 79.01 Operation Limitations

### 79.03 Violation

### 79.02 Exception to Prohibition

**79.01 OPERATION LIMITATIONS.** The riding or using of skateboards, mountainboards, roller skates, in-line skates, and similar devices is prohibited except in those areas within the corporate limits that are zoned “R” - Residential (except churches and school areas). Persons using skateboards, mountainboards, roller skates, and in-line skates in areas zoned residential (except churches and school areas) shall:

1. Confine such use to the far-right side of the road, street, or alley as possible;
2. Operate with the flow of traffic;
3. Operate in a careful and prudent manner upon the public street, alley, or sidewalk, as the case may be;
4. Not cling or attach to any vehicle (including motorcycles, motor scooters and bicycles) while said vehicle is moving upon any street, alley, sidewalk, or path;
5. Give right-of-way to any vehicle operating upon a public street, alley, or sidewalk; or any pedestrian walking on any street, alley, sidewalk, or path; and
6. Wear reflective devices or reflective clothing after dusk.

**79.02 EXCEPTION TO PROHIBITION.** The Council may grant a temporary waiver of this prohibition for a specifically defined area to accommodate a special event.

**79.03 VIOLATION.** Any person violating any section of this chapter is guilty of a simple misdemeanor.

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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 Reclamation of Abandoned Vehicles

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder, or claimant shall pay \$5.00 if claimed within five days of impounding, plus \$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])*

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

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

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

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

**80.08 PROCEEDS FROM SALES.** Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 90 days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

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

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

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# CHAPTER 81

## SNOW REMOVAL

<b>81.01 Short Title</b>	<b>81.04 Parking on Other Streets During Emergency Snow Removal Alert</b>
<b>81.02 Notice of Emergency Snow Removal Alert</b>	<b>81.05 Enforcement of Emergency Snow Removal</b>
<b>81.03 Parking Around Public Square During Emergency Snow Removal Alert</b>	<b>81.06 Fine for Violation</b>

**81.01 SHORT TITLE.** This chapter is known and may be cited as the “Emergency Snow Removal Ordinance.”

**81.02 NOTICE OF EMERGENCY SNOW REMOVAL ALERT.** The Mayor, City Administrator, or streets superintendent may declare an Emergency Snow Removal Alert for the City by means of a broadcast from a Fort Madison, Iowa, radio station. The announcement shall include the time the snow removal alert becomes effective and when it is scheduled to end. The announcement shall describe the prohibition of parking around the Public Square and other public streets within the City. All announcements of an Emergency Snow Removal Alert shall be made between the hours of 7:00 a.m. and 10:00 p.m., and the Emergency Snow Removal Alert shall not go into effect until two hours after the first public broadcast of the announcement. An Emergency Snow Removal Alert shall not remain in effect for more than 48 hours.

**81.03 PARKING AROUND PUBLIC SQUARE DURING EMERGENCY SNOW REMOVAL ALERT.** No vehicles may be parked on the streets around the Public Square between the hours of 3:00 a.m. and 6:00 a.m. when an Emergency Snow Removal Alert is in effect.

**81.04 PARKING ON OTHER STREETS DURING EMERGENCY SNOW REMOVAL ALERT.** During an Emergency Snow Removal Alert the Police Department shall have the authority to issue notices to owners or drivers of parked vehicles interfering with snow removal that the vehicle must be moved within 18 hours of the notice. In such cases the vehicle must be moved to a spot where the snow has been removed the full width of the street. If the owner or driver cannot be contacted, a copy of the notice may be conspicuously attached to the vehicle.

**81.05 ENFORCEMENT OF EMERGENCY SNOW REMOVAL.** The Police Department shall enforce the emergency snow removal ordinance in the following manner:

1. **Public Square.** The owner or driver of a vehicle parked around the Public Square in violation of this chapter shall be given a ticket punishable by a fine set forth in this chapter. If the owner or driver is not present, the ticket may be conspicuously attached to the vehicle. In addition, the owner or driver of said vehicle shall be given a notice to move the vehicle from the streets around the Public Square within 12 hours. If the vehicle is not moved within the prescribed time, the Police Department may order the vehicle removed by means of towing at the owner’s or driver’s expense as provided hereafter.
2. **Other Streets.** If an owner or driver of a vehicle fails to move said vehicle from the other streets as required in the notification, the Police Department may order the vehicle removed by means of towing from the street at the owner’s or driver’s expense as provided hereafter.

3. Towing Charges. If the Police Department orders the removal of a vehicle by towing at the owner's or driver's expense, the towing company may retain possession of the vehicle until the person claiming the vehicle pays the towing charges. Towing charges shall not exceed \$30.00.

**81.06 FINE FOR VIOLATION.** The fine for violation of this chapter shall be \$5.00 and shall be payable within 24 hours by payment at City Hall or depositing the ticket with payment enclosed, in the drop box at the City Hall. Failure to pay the fine as required under this chapter shall be a misdemeanor and punishable as provided under Iowa law against the owner or driver of the vehicle.

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## CHAPTER 90

# WATER SERVICE SYSTEM

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

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

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

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

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

**90.03 MANDATORY CONNECTIONS.** The owners of any houses, buildings or structures used for human occupancy, employment or use, situated within the City and abutting on any street, alley or right-of-way in which there is located a public water main are hereby required to connect such facilities to the City's public water system in accordance with the provisions of these Water Service chapters within 60 days after the date of official notice to do so, provided that said public water main is located within 100 feet of the property line of such owner.

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

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

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

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

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

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

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

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



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

**90.11 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.

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

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

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

**90.14 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.

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

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

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

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

**90.18 OPERATION OF CURB VALVE.** It is unlawful for any person except the Superintendent or a plumber to turn water on at the curb valve, and said plumber shall take no action contrary to the orders of the Superintendent and shall leave the water off or on, as directed by the Superintendent.

**90.19 FIRE HYDRANTS.** No person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

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## CHAPTER 91

# WATER METERS

91.01 Purpose	91.06 Meter Costs
91.02 Water Use Metered	91.07 Meter Repairs
91.03 Fire Sprinkler Systems; Exception	91.08 Right of Entry
91.04 Location of Meters	91.09 Meter Installation Fee
91.05 Meter Setting	91.10 Meter Testing

**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the West Point Utilities and installed by the West Point Utilities.

**91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

**91.05 METER SETTING.** The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

**91.06 METER COSTS.** The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

**91.07 METER REPAIRS.** Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

**91.08 RIGHT OF ENTRY.** The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

**91.09 METER INSTALLATION FEE.** The property owner shall pay an installation fee of \$25.00 for each new installation of a water meter to a three-quarter inch line. Such meter is to remain the property of the City.

**91.10 METER TESTING.** The Superintendent or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter

overruns to the extent of five percent or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than five percent of the total water bill and not for a longer period than three months. If the meter is found to be accurate or slow or less than five percent fast, the user shall pay a testing charge of \$25.00.

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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 Customer Deposits

**92.01 SERVICE CHARGES.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises, or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

*(Code of Iowa, Sec. 384.84)*

1. First 2,000 gallons \$27.54 plus \$1.93 sales tax.
2. \$0.0037 per gallon thereafter.

**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 100 percent 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 and 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. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the fifth day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the twenty-fifth day of the month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of \$5.00 shall be added to each delinquent bill.

**92.05 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected 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 or disconnection.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Board shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Board's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. Fees. A fee of \$50.00 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.

**92.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, stormwater drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

**92.08 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**92.09 CUSTOMER DEPOSITS.** There shall be required from every customer, not the owner of the premises served, a \$150.00 deposit intended to guarantee the payment of bills for service.

*(Code of Iowa, Sec. 384.84)*

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.10 Abandoned Sewer Lines

95.11 Operation and Maintenance of Sanitary Sewer

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Contributor” means any person responsible for the production of domestic, commercial, or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
7. “Debt retirement fund” means a separate fund consisting of the “revenue bond sinking account” and the “revenue bond reserve account.”
8. “Extra strength users” means industrial-commercial contributors to the City’s treatment works with waste greater than normal domestic wastewater.
9. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
10. “Industrial-commercial user” means any contributor to the City’s treatment works whose lot, parcel of real estate, or building is used for other than domestic dwelling purposes.

11. “Industrial-commercial wastes” means wastewater that has a BOD concentration of more than 300 mg/l, a total suspended solids concentration of more than 350 mg/l.
12. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
13. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
14. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
15. “Normal domestic wastewater” means wastewater that has BOD concentration of not more than 300 mg/l, a total suspended solids concentration of not more than 350 mg/l.
16. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.
17. “Operation and maintenance” means all expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for the managing and maintaining the treatment works to achieve the capacity and performance for which such works were designed and constructed.
18. “Operation, maintenance, and replacement fund” means a separate nonlapsing fund which includes the “operations and maintenance account” and the “replacement account.”
19. “Parts Per Million” (PPM) means a weight to weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water, and for the purposes of this chapter shall mean the same as milligrams per liter (mg/l).
20. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
21. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
22. “Replacement” means expenditures for obtaining and installing equipment, and accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operating and maintenance” includes replacement.
23. “Residential contributor” means any contributor to the City’s treatment works whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.
24. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
25. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

26. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
27. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
28. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
29. "Sewer" means a pipe or conduit for carrying sewage.
30. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
31. "Slug" means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
32. "Storm drain" or "storm sewer" means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
33. "Superintendent" means the Superintendent of sewage works or of water pollution control of the City or any authorized deputy, agent, or representative.
34. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
35. "TKN" (total kjeldahl nitrogen) means the measure of organic nitrogen plus ammonia nitrogen content in domestic wastewater.
36. "Treatment works" means any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions, and alternations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for the ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land applications); or any other method of system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined stormwater and sanitary sewer systems.
37. "TSS" (total suspended solids) means solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.
38. "Useful life" means the estimated period during which the treatment works will be operated.

39. “User charge” means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the wastewater treatment works.

40. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

41. “Water meter” means a water volume measuring and recording device, furnished or installed by the City or furnished or installed by a user and approved by the City.

**95.03 SUPERINTENDENT.** The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 30 days after date of official notice from the City to do so provided that said public sewer is located within 150 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

*(567 IAC 69.1[3])*

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

**95.07 RIGHT OF ENTRY.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**95.08 USE OF EASEMENTS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**95.09 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except Subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in Subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

**95.10 ABANDONED SEWER LINES.** When an existing sanitary sewer service is abandoned or a service is renewed with a new connection in the main, all abandoned connections with the mains shall be capped off and made absolutely watertight.

**95.11 OPERATION AND MAINTENANCE OF SANITARY SEWER.**

1. The City sewer fund shall be responsible for performing, at its own cost and expense, all operation and maintenance of the sanitary sewer system main sewer lines throughout the City as well as associated lift stations and treatment plant.
2. The owner of any premises being served by the sanitary sewer system shall be responsible for performing, at their own cost and expense, any and all operation and maintenance of all sewer service lines serving the dwelling, or other structure, up to the sanitary sewer main line with any such required plumbing work being performed by a competent and licensed plumber.
3. The owner of any premises being served by the sanitary sewer system shall be responsible for providing and installing, at their own cost and expense, necessary interceptors in the service line to prevent backflow of sewage through the service line with any such installation work being performed by a competent and licensed plumber.

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## CHAPTER 96

# BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the following information:

1. The location and description of the property to be connected with the sewer system.
2. The purpose for which the sewer is to be used.
3. Plans, specifications, or other information considered pertinent.

The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 30 days after the issuance of the permit, except that when a property owner makes a sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE.** The person who makes the application shall pay a fee in the amount of \$25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

**96.03 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

**96.04 EXCAVATIONS.** All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135.

**96.05 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the

building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

- A. Recommended grade at one-fourth inch per foot.
- B. Minimum grade of one-eighth inch per foot.
- C. Minimum velocity of two feet per second with the sewer half full.
- D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified



clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

**96.06 INTERCEPTORS REQUIRED.** Grease, oil, sludge, and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

**96.08 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer, 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 of the building sewer.

**96.10 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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## CHAPTER 97

# USE OF PUBLIC SEWERS

97.01 Stormwater

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

**97.01 STORMWATER.** No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

**97.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in the best interests of the sewer system.

**97.03 PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow.
  - A. Any waters or wastes:
    - (1) Having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or
    - (2) Containing more than 350 parts per million by weight of suspended solids; or
    - (3) Having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.
  - B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to:
    - (1) Reduce the biochemical oxygen demand to 300 parts per million by weight; or
    - (2) Reduce the suspended solids to 350 parts per million by weight; or
    - (3) Control the quantities and rates of discharge of such waters or wastes.
  - A. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

**97.04 RESTRICTED DISCHARGES.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150°F (65°C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**97.07 CONTROL MANHOLES.** When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

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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

**98.01 WHEN PROHIBITED.** Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

**98.02 WHEN REQUIRED.** When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

*(567 IAC 69.1[3])*

**98.03 COMPLIANCE WITH REGULATIONS.** The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

*(567 IAC 69.1[3 and 4])*

**98.04 PERMIT REQUIRED.** No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

**98.05 DISCHARGE RESTRICTIONS.** It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

*(567 IAC 69.1[3])*

**98.06 MAINTENANCE OF SYSTEM.** The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

**98.07 SYSTEMS ABANDONED.** At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

**98.08 DISPOSAL OF SEPTAGE.** No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

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## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Special Rates  
99.03 Private Water Systems  
99.04 Payment of Bills  
99.05 Lien for Nonpayment  
99.06 Deposit

99.07 Special Agreements Permitted  
99.08 Requirements  
99.09 Maintenance of Funds  
99.10 Basis of Use Determination  
99.11 Review of User Charge System

**99.01 SEWER SERVICE CHARGES REQUIRED.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

*(Code of Iowa, Sec. 384.84)*

1. The minimum charge per month for all contributors shall be \$19.25 for the first 2,000 gallons of water used per month. In addition, each contributor shall pay a user charge rate of \$9.98 per 1,000 gallons used, which is necessary to retire indebtedness, to pay operating, maintenance, and replacement costs and to fund reserves necessary for maintaining the sanitary sewer system.

Per the attached sewer analysis, to meet debt obligation payment and inflationary increases, the rate chart will remain level until fiscal year 2025.

2. For those contributors who contribute wastewater the strength of which is greater than normal domestic wastewater as defined in Section 95.02(15), an extra strength surcharge in addition to the normal user charge will be collected. The extra strength surcharge for the operation and maintenance, replacement and debt retirement is:

- A. \$0.33 per pound BOD
- B. \$0.54 per pound TSS

3. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the Council.

**99.02 SPECIAL RATES.** Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

*(Code of Iowa, Sec. 384.84)*

**99.03 PRIVATE WATER SYSTEMS.** Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

*(Code of Iowa, Sec. 384.84)*

**99.04 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.05 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.06 DEPOSIT.** There shall be required from every customer not the owner of the premises served a \$25.00 deposit intended to guarantee the payment of bills for service.

*(Code of Iowa, Sec. 384.84)*

**99.07 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

**99.08 REQUIREMENTS.** The user charge system shall generate adequate annual revenues to pay costs of:

1. Annual operation, maintenance, and replacement; and
2. Costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may, by ordinance, designate to be paid by the user charge system.

That portion of the total user charge, which is designed for operation and maintenance, including replacement of the treatment works, shall be established by this chapter.

**99.09 MAINTENANCE OF FUNDS.** Fiscal year-end balances shall be treated as follows:

1. Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same fund in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operations, maintenance, and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance, and replacement. The user charge rate shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

2. Fiscal year-end balances in the revenue bond sinking account and the revenue bond reserve account shall be carried over to the same accounts in the subsequent year, and shall be used for no other purposes than those designated for these accounts. The required amount to be deposited to the revenue bond sinking account in any month shall be an amount equal to one-sixth of the installment of interest coming due on the next interest payment date and one-twelfth of the installment of principal coming due on such bonds on the next principal payment date until the full amount of such installment is on hand.

**99.10 BASIS OF USE DETERMINATION.** The use of the wastewater treatment works shall be determined on the following basis:

1. The user charge shall be applied to the quantity of water used by each contributor of sanitary sewage for each individual water meter contributing to said sewer system as determined by monthly water meter readings of the municipal waterworks of the City, and by such privately owned water supplies as may contribute to the sewer system; and in the case of unmetered water supplies, the quantity of water used and discharged into the sewer system of said City shall be determined to the satisfaction of the Council and at the expense of the owner of unmetered water supply. If the estimated quantity of water from any unmetered water supply is estimated to be in excess of 5,000 per month the Council may require that such water supply be metered at the expense of the owner of such water supply.

2. Where flow measurement devices are required of persons contributing industrial wastes to the sewer system, the City may authorize the quantities shown on the permanently recorded records of such flow measurements devices to be used as the basis of determination of the rate to be paid by the person.

**99.11 REVIEW OF USER CHARGE SYSTEM.** The City shall review the user charge system annually and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance, including replacement costs, and that the system continues to provide for the proportional distribution of operating and maintenance costs including replacement costs among users and user classes.

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.09 Waste Storage Containers
105.02 Definitions	105.10 Prohibited Practices
105.03 Sanitary Disposal Required	105.11 Sanitary Disposal Project Designated
105.04 Health and Fire Hazard	105.12 Storage of Yard Wastes
105.05 Open Burning Restricted	105.13 Tree Limbs and Brush
105.06 Separation of Yard Waste Required	105.14 Yard Wastes
105.07 Littering Prohibited	105.15 Exceptions
105.08 Toxic and Hazardous Waste	105.16 Integrated Waste Service Fee

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1. “Approved incinerator” means equipment or facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to notice in writing at least one week before such action commences.

*(IAC, 400-4.2[3g])*

2. “Collector” means any person authorized to gather solid waste from public and private places.

3. “Discard” means to place, cause to be placed, throw, deposit, or drop.

*(Code of Iowa, Sec. 455B.361[1])*

4. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.

5. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

*(567 IAC 100.2)*

6. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

*(567 IAC 20.2)*

7. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

*(Code of Iowa, Sec. 455B.361[2])*

8. “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.

9. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.  
(567 IAC 100.2)

10. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including four separate dwelling units.

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.  
(567 IAC 20.2)

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.  
(567 IAC 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.  
(567 IAC 100.2)

14. “Sanitary disposal project” means the Great River Regional Waste Authority (GRRWA) landfill operation at Fort Madison or its Keokuk Transfer Station branch which are the authorized solid waste disposal sites in the County equipped, maintained, and 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 County Board of Supervisors and the Council and where all solid waste collected within the City shall be transported for proper and appropriate disposal.

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.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

16. “Toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(567 IAC 100.2)*

17. “Yard waste” means organic debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, plants, vegetables, weeds, shrubbery, yard trimmings, etc.) which is produced as part of yard and garden development and maintenance.

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation, or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(567 IAC 23.2 and 100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(567 IAC 23.2[3]“a”)*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(567 IAC 23.2[3]“b”)*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(567 IAC 23.2[3]“c”)*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(567 IAC 23.2[3]“d”)*

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(567 IAC 23.2[3]“e”)*

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

*(567 IAC 23.2[3]“f”)*

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(567 IAC 23.2[3]“g”)*

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(567 IAC 23.2[2])*

9. Toxic Material. The burning of any material or object containing a toxic substance is prohibited at all times.

**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.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*



**105.08 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. Toxic or hazardous wastes shall be disposed of only upon receipt of and in accordance with instructions issued by the Great River Regional Waste Authority (GRRWA).

*(567 IAC 100.2)*

*(567 IAC 102.13[2] and 400 IAC 27.14[2])*

**105.09 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 are reusable, portable containers or heavy-duty disposable garbage bags, shall be of a size not less than 20 gallons or more than 35 gallons in nominal capacity, and shall be leak-proof, and waterproof. The total weight of any container and contents shall not exceed 75 pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

- (1) Be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container.
- (2) Have handles, bails, or other suitable lifting devices or features.
- (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying.
- (4) Be of lightweight and sturdy construction.

B. Galvanized metal containers, rubber or fiberglass containers, and plastic containers that do not become brittle in cold weather may be used.

2. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

3. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse

is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Great River Regional Waste Authority (GRRWA) are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

**105.12 STORAGE OF YARD WASTES.** All yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. Tree limbs less than four inches in diameter and brush shall be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not in placed in storage containers. The weight of any individual bundle or container shall not exceed 75 pounds.

**105.13 TREE LIMBS AND BRUSH.** Tree limbs and brush shall be brought to the City compost bin area for deposit by the owner or occupant of the property served for necessary and appropriate processing and disposal by the City.

**105.14 YARD WASTES.** Yard wastes shall be brought to the City compost bin area for deposit by the owner or occupant of the property served for necessary and appropriate processing and disposal by the City.

**105.15 EXCEPTIONS.** Nothing in this chapter shall prohibit the filling, leveling, or grading of land with earth, sand, dirt, stone, brick, gravel, rock, rubble, or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible, or other waste materials.

**105.16 INTEGRATED WASTE SERVICE FEE.** In consideration of its maintenance of a comprehensive solid waste disposal plan, on behalf of the City, and its continuing provision of a sanitary disposal for final disposal of solid waste generated by the City and its residents and reward associated engineering and related overhead costs, the Council does hereby authorize and establish an Integrated Waste Service (IWS) fee favoring the Great River Regional Waste Authority in the amount of \$1.00 per month per sewer connection in effect from July 1, 2008.

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## 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

**106.01 COLLECTION SERVICE.** Collection of solid waste within the City shall be performed as follows:

1. License Required. The collection of solid waste within the City shall be only by collectors licensed by the City.
2. Unit or Volume Based Pricing. Any individual or entity holding a license to collect solid waste within the City shall charge based upon the volume of solid waste generated. Such unit/volume based charges shall be based on a basic collection of up to three 33-gallon containers per week per household with a surcharge of \$1.00 being applied for each additional container (over and above the basic collection allowance) per week per household collected by the license holder in order to create a financial incentive to recycle and reduce the volume of solid waste flowing into the landfill.
3. Recycling. Any individual or entity holding a license to collect solid waste within the City shall encourage and promote the recycling of appropriate solid waste materials including tin, clear glass bottles and jars, plastic, newsprint, magazines, and cardboard or other materials as may be designated from time to time, and shall arrange for collection and appropriate disposal of recyclable materials at a Great River Regional Waste Authority (GRRWA) sanitary disposal project facility.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(567 IAC 104.9)*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises as frequently as needed and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than weekly.

**106.05 BULKY RUBBISH.** Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

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## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.14 Franchise Fee Exemption
110.02 Rights and Privileges	110.15 Franchise Fee Modified
110.03 Pipes and Mains	110.16 Franchise Fee Collection
110.04 Construction and Maintenance	110.17 Franchise Fee Annexed Areas
110.05 Excavation	110.18 Franchise Fee Indemnification
110.06 Utility Easement	110.19 Remit Franchise Fee
110.07 Relocation Not Required	110.20 Franchise Fee City Reimbursement
110.08 Relocation Reimbursement	110.21 Franchise Fee Company Reimbursement
110.09 Indemnification	110.22 Obligation to Collect and Remit Fee
110.10 Information	110.23 Management Fees
110.11 Applicable Regulations	110.24 Termination
110.12 Term of Franchise	110.25 Validity
110.13 Franchise Fee	110.26 Assignment

**110.01 FRANCHISE GRANTED.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns, the right and franchise to acquire, construct, erect, maintain, and operate in the City of West Point, Iowa, hereinafter called the “City,” a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys, and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. This franchise shall be effective for a 25 year period from and after the effective date of this chapter.<sup>†</sup>

**110.02 RIGHTS AND PRIVILEGES.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa 2009*, or as subsequently amended or changed.

**110.03 PIPES AND MAINS.** Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing, or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with the construction of any water pipes, drain, or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

**110.04 CONSTRUCTION AND MAINTENANCE.** The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance, or repair of the street or alley. The City and the Company shall work together to develop a suitable alternative route or construction method so as to eliminate or minimize the cost and expense to the Company of relocation of Company installations. If the City has a reasonable alternative route for the street, alley, or public improvements or an alternative construction method, which would not cause the

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 285-11, adopting a natural gas franchise for the City, was passed and adopted on May 9, 2011.

relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City, at its own cost, shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees at its cost or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**110.05 EXCAVATION.** In making excavations in any streets, avenues, alleys, and public places for the installation of gas pipes, conduits, or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed prior to excavation. The Company shall not be required to restore or modify public right-of-way, sidewalks, or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with City, State, or federal rules, regulations, or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

**110.06 UTILITY EASEMENT.** Vacating a street, avenue, alley, public ground, or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to abandoning or vacating any street, avenue, alley, or public ground where the Company has natural gas facilities, in the vicinity, the City shall provide Company with not less than 60 days advance notice of the City's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. The City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public ground, the City shall, at its cost and expense, obtain easements for existing Company facilities.

**110.07 RELOCATION NOT REQUIRED.** The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City in the previous 10 years.

**110.08 RELOCATION REIMBURSEMENT.** Pursuant to relocation of Company facilities as may be required by Sections 110.03, 110.04, 110.05, 110.06, 110.07, and 110.08, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or non-public entity, the City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

**110.09 INDEMNIFICATION.** The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs, or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the natural

gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

**110.10 INFORMATION.** Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under State or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right-of-way which may constitute a trade secret, or which may otherwise be protected from public disclosure by State or federal law. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, and Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

**110.11 APPLICABLE REGULATIONS.** The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

**110.12 TERM OF FRANCHISE.** During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

**110.13 FRANCHISE FEE.** There is hereby imposed upon and shall be collected from the natural gas customers of MidAmerican Energy Company receiving service pursuant to the Tariff located within the corporate limits of the City and remitted by the Company to the City, a franchise fee from each revenue class as set forth below of the gross receipts, minus uncollectable amounts, derived by the Company from the delivery and sale of natural gas to customers within the corporate limits of the City:

- 1. Residential Customers .....zero percent
- 2. Commercial Customers .....zero percent
- 3. Industrial Customers .....zero percent
- 4. Public Authority Customers .....zero percent
- 5. Distribution (Transportation) Customers.....zero percent

**110.14 FRANCHISE FEE EXEMPTION.** The City may, as allowed by Iowa law, exempt certain types or classes of sales from imposition of the franchise fee, or modify, decrease, or eliminate the franchise fee. The City does therefore exempt the customer classes or customer groups shown below franchise fees. The City reserves the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to additional customers or customer classes in compliance with Iowa law and Section 110.15 of this chapter.

- 1. Customer classes initially exempted by the City.

**110.15 FRANCHISE FEE MODIFIED.** The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting certain types or classes of customers, increasing, decreasing, modifying, or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the Council.

**110.16 FRANCHISE FEE COLLECTION.** The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City's documentation of consumers subject to, or exempted from City imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

**110.17 FRANCHISE FEE ANNEXED AREAS.** The City shall be solely responsible for identifying customers subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits including, over time, annexations, or other alterations thereto, and customers that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

**110.18 FRANCHISE FEE INDEMNIFICATION.** 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 subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

**110.19 REMIT FRANCHISE FEE.** The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows:

1. January, February, and March
2. April, May, and June
3. July, August, and September, and
4. October, November, and December

Company shall provide City with notice at least 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.



**110.20 FRANCHISE FEE CITY REIMBURSEMENT.** The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that Company, in its sole opinion, deems to be in excess of typical costs of franchise fee administration.

**110.21 FRANCHISE FEE COMPANY REIMBURSEMENT.** 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 or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

**110.22 OBLIGATION TO COLLECT AND REMIT FEE.** The obligation to collect and remit the fee imposed by this chapter is modified or repealed if:

1. Any other person is authorized to sell natural gas at retail to City consumers 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;
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 at retail 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. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling 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 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 chapter, 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.
4. The other provisions of this chapter to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefor under each of any of the following circumstances as determined to exist in the sole discretion of Company:
  - A. 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.

B. 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.

C. The Iowa Utilities Board, or its 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.

**110.23 MANAGEMENT FEES.** The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge Company right-of-way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

**110.24 TERMINATION.** Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

**110.25 VALIDITY.** If any section, provision, or part of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**110.26 ASSIGNMENT.** This chapter and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this chapter within 10 days of its final passage. The Company shall, within 30 days after the Council approval of this chapter, file in the office of the Clerk, its acceptance in writing of all the terms and provisions of this chapter. Following Council approval, this chapter shall be published in accordance with the *Code of Iowa*. The effective date of this chapter shall be the date of publication. In the event that Company does not file its written acceptance of this chapter within 30 days after its approval by the Council this chapter shall be void and of no effect.

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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 Amusement Devices

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a retail alcohol license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122, and 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39, and 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

*(Code of Iowa, Sec. 123.49[2b])*

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel

or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

*(Code of Iowa, Sec. 142D.2[1])*

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

*(Code of Iowa, Sec. 142D.2[17])*

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[2k])*

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a retail alcohol license, as specifically authorized in said Chapter 99B.)

*(Code of Iowa, Sec. 99B.57)*

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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**CHAPTER 121**  
**CIGARETTE AND TOBACCO PERMITS**

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
*(Code of Iowa, Sec. 453A.1)*

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

**121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 and 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 and 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit.



**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 and 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

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## CHAPTER 122

# PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.12 Record and Determination
122.02 Definitions	122.13 Appeal
122.03 License Required	122.14 Effect of Revocation
122.04 Application for License	122.15 Rebates
122.05 License Fees	122.16 License Exemptions
122.06 License Bond	122.17 Charitable and Nonprofit Organizations
122.07 License Issued	122.18 Number of Licenses Required
122.08 Display of License	122.19 License Expiration
122.09 License Not Transferable	122.20 Denial of License
122.10 Revocation of License	122.21 Sales Regulations
122.11 Hearing	

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. An application fee of \$25.00 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:
  - A. For up to 30 days ..... \$5.00
  - B. For up to 90 days ..... \$10.00
  - C. For up to 180 days ..... \$15.00
  - D. For up to one year ..... \$25.00
2. Peddlers or Transient Merchants:
  - A. For up to three consecutive days ..... \$15.00
  - B. For up to one week ..... \$30.00
  - C. For up to 30 days ..... \$50.00
  - D. For up to 90 days ..... \$75.00
  - E. For up to 180 days ..... \$125.00
  - F. For up to one year ..... \$200.00

**122.06 LICENSE BOND.** Before a license under this chapter shall be issued, each applicant shall post a cash bond or surety bond in the sum of \$1,000.00 with the Clerk. Such bond shall be conditioned that the applicant shall comply with the provisions of all the ordinances of the City and the statutes of the State regulating and concerning the sale of goods, subscriptions, wares, merchandise, or personal property of any nature, including food and beverages, or for services, including advertising, and will pay all judgments rendered against the applicant for any violation of ordinances or statutes or any of them together, with all judgments and costs that may be recovered against said applicant by any person or persons for damage growing out of any misrepresentations or deception that was made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale, or the solicitation of the sale, or through any advertisements of any character whatsoever, printed or circulated with reference, to the subject matter of such sale or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond shall be further conditioned to indemnify and pay the City for any penalties or costs occasioned by the enforcement of this chapter and shall not be retired until after a lapse of one year from the expiration of the license. In such bond the applicant and surety shall appoint the Clerk as agent of the applicant and surety for the service of process. In the event of such service, the agent upon whom such service is made shall within five days after the date of service, mail by ordinary mail a true copy of the process served upon the agent to each party for whom the agent is served, addressed to the last known address of such party. Failure to mail said copy shall not, however, affect the jurisdiction of the court. Such bond shall contain the consent of the applicant and surety that the County District Court shall have jurisdiction of all actions against the applicant or surety, or both, arising out of sales made in the City.

**122.07 LICENSE ISSUED.** The Clerk shall forward the application to the Council for consideration at its next scheduled meeting, at which time the Council shall either approve or disapprove the issuance of a license. The Council shall endorse such approval or disapproval on the application itself along with its reasons for any disapproval and shall thereafter return the application to the Clerk. Upon approval of the Council, the Clerk shall issue a license upon payment of the license fee and upon the posting of a bond as required by this chapter. Upon

disapproval of the Council, the Clerk shall notify the applicant that their application has been disapproved and that no license shall be issued.

**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 REVOCATION OF LICENSE.** Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health, or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

**122.11 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.

**122.12 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.

**122.13 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.14 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.

**122.15 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which

the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

**122.16 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 Holy Trinity Catholic, Central Lee, and Fort Madison Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.  
(Code of Iowa, Sec. 364.3[13])
8. Persons who sell at their permanent residence in the City, works of art or craft made or created by such person or a member of such person's immediate family.
9. Persons selling or delivering tangible personal property, food, or beverages through a permanent business licensed through the City.
10. Persons selling tangible personal property, food, or beverages at a garage, basement, or yard sale held at one of the person's premises.
11. Persons selling tangible personal property, food, or beverages at a private show or party held at one of the person's premises.
12. Special events, as so designated by the Council and maintained on a list by the Clerk, as well as any peddler, solicitor, or transient merchant formally sanctioned by the event sponsor. The event sponsor will be required to file a list with the Clerk of formally sanctioned peddlers, solicitors, and transient merchants at least 30 days prior to the event.
13. Persons conducting sales required by statute or by order of any court.

**122.17 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit to the Clerk in writing the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be

charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14.

**122.18 NUMBER OF LICENSES REQUIRED.** Individual peddler and solicitor licenses will be required for each peddler and solicitor doing business within the City. Transient merchants will be required to purchase a license for each stand or place of business.

**122.19 LICENSE EXPIRATION.** All licenses issued hereunder shall expire at 8:00 p.m. of the last day for which the license is issued.

**122.20 DENIAL OF LICENSE.** The Council may deny a license to any applicant who has:

1. Held a license under this chapter that has been revoked within two years of the date of the present application.
2. Failed to make a complete and truthful application.
3. During the past two years a history of:
  - A. Fraudulent applications for similar licenses;
  - B. Misrepresentation of the quality of goods, wares, or merchandise offered for sale;
  - C. Crimes involving personal property.

**122.21 SALES REGULATIONS.** The following regulations apply to all sales and solicitations made by any peddler, solicitor, or transient merchant:

1. No person shall engage in activities regulated under this chapter on public property without first procuring special authorization from the Council.
2. No person shall engage in activities regulated under this chapter in defiance of any notice exhibited at a residence or business indicating that peddlers or solicitors are not welcome or are not invited.
3. No person shall engage in the activities regulated under this chapter from house-to-house prior to 8:00 a.m. or after 7:00 p.m.
4. A written receipt for all orders taken within the City shall be given to the customer, which receipt shall be signed by the person making the sale, and shall set forth a brief description of the goods, wares, or merchandise ordered, the total purchase price thereof, and the amount of the down payment received from the customer.
5. No person shall engage in activities regulated under this chapter at any location, public or private, in such a manner as to hinder or obstruct the free passage of pedestrian or vehicular traffic.

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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 Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk on a form provided by the City. 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, Street Supervisor, and Public Utility Officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

**123.06 PERMIT FEE.** A permit fee of \$100.00 shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building, or similar structure to be moved.

**123.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

**123.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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## CHAPTER 124

# TREE TRIMMERS

124.01 Purpose	124.06 Insurance Required
124.02 Tree Trimmer Defined	124.07 License Issued
124.03 License Required	124.08 Public Safety
124.04 Application	124.09 Time Limit
124.05 Bond Required	124.10 Removal by City

**124.01 PURPOSE.** The purpose of this chapter is to protect and preserve the public safety and wellbeing by licensing and regulating tree trimmers and tree surgeons.

**124.02 TREE TRIMMER DEFINED.** The words “tree trimmer” and “tree surgeon” as used herein shall mean any person, firm, or corporation, who solicits or performs the work of felling trees, or who cuts or trims any tree or limbs or branches of any tree, or who offers services in the diagnosis and treatment of diseases of any tree, for a valuable consideration.

**124.03 LICENSE REQUIRED.** It shall be unlawful for any person to engage in the activity of tree trimmer as herein defined without a valid license from the City.

**124.04 APPLICATION.** Application for a tree trimmer's license shall be made in writing to the Clerk on forms furnished by him. 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. Equipment. A listing of the type and number of pieces of automotive, power, and safety equipment which is available or will be used within the City.
3. Qualifications. A statement of the training, experience, or other qualifications pertaining to the type of work to be done within the City.

**124.05 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the licensee'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 the activities of a tree trimmer.

**124.06 INSURANCE REQUIRED.** Each applicant shall also have filed a certificate of insurance indicating that they are carrying public liability insurance in effect for the duration of the license covering themselves and their agents and employees for the following amounts:

1. Personal Injury ..... \$100,000.00 per person and \$300,000.00 per occurrence
2. Bodily Injury ..... \$50,000.00

**124.07 LICENSE ISSUED.** Upon completion of the application, filing of bond, and insurance certificate, and payment of the required fee, the Clerk shall issue a license.

**124.08 PUBLIC SAFETY.** At all times when working in or upon any street, alley, sidewalk or public property, the licensee shall maintain adequate warning signs or flares.

**124.09 TIME LIMIT.** No tree trimmer shall permit or allow any tree limbs, branches, clippings, or other debris to remain upon any street or other public way for a period of more than four hours without having first secured the written approval of the City.

**124.10 REMOVAL BY CITY.** In the event any tree trimmer is found to be in violation of Section 124.09, the City is authorized to remove such material and assess the costs thereof against the license holder and the surety on their bond.

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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 Property Owner's Responsibility for Maintenance

135.11 Failure to Maintain

135.12 Dumping of Snow

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store, or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. **Permit Required.** No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. **Public Convenience.** Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. **Barricades, Fencing, and Lighting.** Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder or property owner.
4. **Bond Required.** The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 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 \$1,000.00 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, or in a manner satisfactory to the City, at the expense of the permit holder or property owner.
7. **Inspection.** All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder or property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.
8. **Completion by the City.** Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to

finish or correct the excavation work and charge any expenses for such work to the permit holder or property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder 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 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 Fee. A permit fee of \$25.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

**135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.<sup>†</sup>

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

**135.11 FAILURE TO MAINTAIN.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 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])*

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<sup>†</sup> **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "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.
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 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.** The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

**136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain all public right of way located between the edge of the street or curb line and the property line, and shall keep such area in a safe condition free from defects, debris, nuisances, obstructions or any other hazard. The abutting property owner may be liable for damages caused by failure to maintain the public right of way located between the edge of the street or curb line and the property line. The abutting property owner shall maintain the sidewalk in a safe condition, in a state of good repair, and free from defects. Notwithstanding the obligations imposed hereunder, the property owner shall in no event remove diseased trees or dead wood or plant, trim, remove or treat any tree or plant material on public right of way without first obtaining a permit from the City forester.

**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 and e])*

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City and shall be accompanied by a permit fee of \$0.00.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width, and depth requirements are as follows:
- A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
  - C. All sidewalks throughout the Business District shall be constructed from lot line to the curb line unless the location of the sidewalk is varied by an appropriate resolution of the Council upon application by the landowner.
  - D. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway, or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables, or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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## 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 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)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.  
*(Code of Iowa, Sec. 174.15[2] and 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys, or public grounds and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
51		287-12	June 11, 2012
84	November 5, 1951		
87	April 23, 1953		
88	May 21, 1953		
90	March 7, 1955		
107	February 6, 1967		
108	November 6, 1967		
110	February 5, 1968		
111	February 5, 1968		
112	April 1, 1968		
115	March 3, 1969		
117	September 2, 1969		
121	January 2, 1970		
122	May 4, 1970		
124	June 7, 1971		
129	November 6, 1972		
132	October 1, 1973		
140	August 5, 1974		
141	October 7, 1974		
157	May 16, 1977		
169	August 7, 1978		
195	November 1, 1982		
211	May 12, 1986		
224	September 26, 1990		
228	July 13, 1992		
269	November 14, 2005		

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**CHAPTER 138**

**STREET GRADES**

**138.01 Purpose and Definition**  
**138.02 Established Grades**

**138.03 Record Maintained**

**138.01 PURPOSE AND DEFINITION.** This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, “grade” means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

**138.02 ESTABLISHED GRADES.** The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

**138.03 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

**EDITOR’S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street or sidewalk grades and remain in full force and effect.

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
100	August 6, 1962		
103	July 1, 1963		

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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. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
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 ordinance, 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 West Point, 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 amendment 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. No amendment to this chapter which involves naming or changing the name of a street shall become effective until after such change and entry have been made on said map.

<b>EDITOR'S NOTE</b>			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing or changing street names and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>

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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; Municipal Infraction  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 and 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that they may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time, and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF WEST POINT, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

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<sup>†</sup> **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow their recommendation carefully.

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

146.04 Special Permits

146.05 Application for Special Permit

146.06 Termination of Special Permit

**146.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 435.1*)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in the State. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(*Code of Iowa, Sec. 435.26*)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

*(Code of Iowa, Sec. 103A.10 and 414.28)*

**146.04 SPECIAL PERMITS.** The Council, upon application of a mobile home owner, may issue special permits for the location of mobile homes outside mobile home parks. The Council shall issue such special permits only when it appears that location within local mobile home parks is impracticable and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of 12 months but upon expiration a reapplication may be made, and such reapplication shall be accompanied by a fee payment in the sum of \$5.00. Not more than one mobile home shall be permitted to be located on the same premises outside of mobile home parks. The reapplication for a special permit shall be in writing and filed with the Clerk and shall contain all current information required under Section 146.05, except for Subsection 5 of said section which shall not be required upon reapplication. The special permit granted under this chapter is not transferable to another mobile home or to any other site of location.

**146.05 APPLICATION FOR SPECIAL PERMIT.** Application for a special permit shall be accompanied by an initial permit fee of \$25.00. The application shall contain:

1. Name, Address, and License Number. The name and present address of the applicant and of the owner thereof, if not the same, together with the license number of the mobile home, and any automobile used in connection therewith.
2. Site Address and Description. Complete street address and legal description of the site, lot, or tract of land upon which the mobile home is proposed to be located.
3. Water and Sanitation. The sources of water supply and the method of disposal of sewage, garbage, refuse and waste; the toilet, bath and laundry facilities available for use.
4. Lot Owner Information. Should the mobile home be located upon a site, lot, or tract of land upon which there is no other occupied dwelling, the application shall contain the name and address of the owner of such lot and his endorsement approving such use. In the event that there is an occupied dwelling or dwellings thereon, then the consent of the owner thereof and also consent of each adult occupant of such dwelling or dwellings shall be endorsed thereon.
5. Approval of Adjacent Property Owners. The written approval of each owner of record of the real estate located within 100 feet from each boundary line of the lot or tract of land on which the mobile home is to be located.
6. Size and Dimensions of Lot. The size and dimensions of the space provided for the location of the mobile home and how far each space is from any property line, as well as the clearance between the mobile home and any building.

**146.06 TERMINATION OF SPECIAL PERMIT.** The special permit granted under this chapter will be terminated or revoked if any one of the following should occur:

1. Removal From Location. If the mobile home is removed to another site, lot, or tract of land.
2. Vacancy or Abandonment. If the mobile home is vacant or abandoned for more than 90 days, unless the owner or occupant of the mobile home first notifies the Council in writing and such vacancy or abandonment is approved by motion or resolution of the Council.
3. Partial or Total Destructions. If the mobile home incurs damage resulting in more than 35 percent of its total value as determined immediately before the damage was incurred, and such damage is not repaired or restored to its original condition before the damage, or to a better condition, within 90 days after the damage was incurred.
4. Health Hazard. If upon determination by the County Department of Health that the condition of the mobile home or its immediate surroundings constitutes a nuisance or health hazard.
5. Failure to File for Reapplication. If the owner of the mobile home fails to file for reapplication for the special permit on or before the expiration date.
6. Refusal to Grant Reapplication. If the Council upon review of the reapplication should determine the owner of the mobile home has failed to adequately show in his or her reapplication the information necessary and as required under Sections 146.04 and 146.05.
7. Sale of Mobile Home or Property. Upon the sale of the mobile home by the owner of said mobile home or upon the sale of the lot on which the mobile home is situated by the owner of the lot, if said owner is different than the owner of the mobile home.

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## CHAPTER 147

### FIRE ZONE

147.01 Fire Limits

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 LIMITS.** The fire limits are established to include property within the following boundaries:

1. The east one-half of Block No. 7 running to the alley;
2. The west one-half of Block No. 3 running to the alley;
3. Lots Numbered 1 and 2 in Block No. 6;
4. Lots Numbered 17 and 18 in Block No. 4;
5. Lots Numbered 10 and 11 in Block No. 2;
6. Lots Numbered 7 and 8 in Block No. 8;
7. Lots Numbered 1, 16, 17, 18, 19, and 20 in Block No. 5; and
8. Lots Numbered 8, 9, 10, 11, 12, and 13 in Block No. 1 all in 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 fire resistant construction, as specified in the *International Building Code*.

**147.05 RECONSTRUCTION PROHIBITED.** Any building within the Fire Zone not constructed in accordance with the provisions of this chapter which is hereafter 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 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 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 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 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 Plan**

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.  
*(Code of Iowa, Sec. 364.12(3)(d))*
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half inches in height and of a contrasting color with their background.  
*(Code of Iowa, Sec. 364.12(3)(d))*
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.  
*(Code of Iowa, Sec. 364.12(3)(h))*

**150.03 BUILDING NUMBERING PLAN.** Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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## CHAPTER 151

### TREES

#### 151.01 Definition

#### 151.02 Planting Restrictions

#### 151.03 Duty To Trim Trees

#### 151.04 Trimming Trees To Be Supervised

#### 151.05 Disease Control

#### 151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon. In no case shall the property owner be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

*(Code of Iowa, Sec. 364.12(2)(c), (3)(b), and (3)(h))*

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## CHAPTER 152

# DUTCH ELM DISEASE CONTROL

152.01 Trees Subject to Removal

152.02 Duty to Remove

152.03 Inspection

152.04 Removal from City Property

152.05 Removal from Private Property

**152.01 TREES SUBJECT TO REMOVAL.** The Council having determined that the health of the elm trees within the City is threatened by a fatal disease known as the Dutch Elm Disease hereby declares the following shall be removed:

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

1. Living or Standing Trees. Any living or standing elm tree or part thereof infected with the Dutch Elm Disease fungus or which harbors any of the elm bark beetles, that is *scolytus multistriatus* (eichb) or *hylurgopinus rufipes* (marsh).
2. Dead Trees. Any dead elm tree or part thereof including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

**152.02 DUTY TO REMOVE.** No person, firm, or corporation shall permit any tree or material as defined in Section 152.01 to remain on the premises owned, controlled, or occupied by them within the City.

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

**152.03 INSPECTION.** The Superintendent shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Section 152.01 exists thereon and shall also inspect or cause to be inspected any elm trees reported or suspected to be infected with the Dutch Elm Disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles.

**152.04 REMOVAL FROM CITY PROPERTY.** If the Superintendent, upon inspection or examination, in person, or by some qualified person acting for them, shall determine that any condition as herein defined exists in or upon any public street, alley, park, or any public place, including the strip between the curb and the lot line of private property, within the City and that the danger of other elm trees within the City is imminent, they shall immediately cause it to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease or the insect pests or vectors known to carry such disease fungus.

**152.05 REMOVAL FROM PRIVATE PROPERTY.** If the Superintendent upon inspection or examination, in person or by some qualified person acting for them, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises and that the danger to other elm trees within the City is imminent, they shall immediately notify by certified mail the owner, occupant, or person in charge of such property, to correct such condition within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt thereof, the Council may cause the nuisance to be removed and the cost assessed against the property as provided in Chapter 50. If the Superintendent is unable to determine with reasonable certainty whether or

not a tree in or upon private premises is infected with Dutch Elm Disease, they are authorized to remove or cut specimens from said tree and obtain a diagnosis of such specimens.

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

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## CHAPTER 153

# CONTROLLING THE USE OF PUBLIC PROPERTY AND RIGHT-OF-WAY

153.01 Purpose and Rule of Interpretation	153.09 City Construction and Paving
153.02 Franchise, License, or Lease Required	153.10 Design Notice to City
153.03 Fees Required	153.11 Above-Ground Cables, Wires, Conduits, and Poles
153.04 Limit on Term	153.12 Assignment
153.05 Placement of Facilities	153.13 Forfeiture
153.06 Indemnification and Bond	153.14 Application
153.07 Regulation by the City	153.15 Home Rule
153.08 Construction and Excavation by Holders of Franchises, Licenses, or Leases	153.16 New Technologies

**153.01 PURPOSE AND RULE OF INTERPRETATION.** The Council finds it is necessary for the City to establish uniform rules and controls to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize streets and other public property for the delivery of utility or other services, in order to protect public and private investment, ensure orderly use of public property and ensure the health, safety, and welfare of the population, to provide for the regulation and administration of the public streets and other public property and secure the rights of the City to a return on its investment in public property. This chapter is to be interpreted in light of these findings for the benefit of the public and users of the streets and other public property.

**153.02 FRANCHISE, LICENSE, OR LEASE REQUIRED.** No person or other entity shall use the public right-of-way or other public property without first obtaining a franchise, license, or lease from the City. The City shall not enter into or issue any franchise, license, or lease that grants exclusive rights. An application for a license or lease shall be filed with the Clerk on a form provided by the City and shall include at a minimum the following information:

1. The name, address, and telephone number of the applicant;
2. The name, address, and telephone number of a person whom the City may notify or contact at any time concerning the license or lease;
3. An engineering site plan showing the proposed location of the facilities including any manholes;
4. The size, type, and proposed depth of any conduit or other enclosures; and
5. Showing all other existing utility services within said right-of-way; and any additional information the City may require.

All licenses or leases required by this section shall be granted by the Council. The application shall be made by, or in the name of, the intended holder of the franchise, license, or lease. The holder of the franchise, license, or lease shall ultimately be the party responsible for performing the duties and obligations under this chapter or under the terms of any franchise, license, or lease.

**153.03 FEES REQUIRED.**

1. Franchise Fee.
  - A. All costs incurred by the City in the granting, amending, extension, or renewal of a franchise shall be paid by the applicant.
  - B. A filing fee of \$500.00 to be paid upon the filing of the application for franchise for the purpose of reimbursing the City for clerical time on the part of City employees in connection with the franchise.
  - C. An annual fee of \$250.00 to be paid on the first working day in each calendar year after the granting of and during the term of the franchise for the purpose of reimbursing the City for acquisition, development, and maintenance costs of said right-of-way to the City. If the City's cost or expense arising out of the franchise should exceed the minimum fee, the City shall be entitled to bill the franchise holder for labor and equipment rental at the prevailing rate and for the cost of materials provided at the request of the franchise holder. The purpose of this subsection is to allow the City the opportunity to be reimbursed for any and all out-of-pocket expenses incurred in connection with the franchise granted to the franchise holder.
2. License or Lease Fee.
  - A. An initial fee of \$250.00 shall be paid to the City upon application for a license or lease for the purpose of reimbursing the City for clerical time on the part of City employees in connection with the license or lease.
  - B. A fee of \$250.00 shall be paid on the first working day in each calendar year after the granting of and during the term of the license or lease for the purpose of reimbursing the City for acquisition, development, and maintenance costs of said right-of-way to the City. If the City's cost or expense arising out of the license or lease should exceed the minimum fee, the City shall be entitled to bill the license or lease holder for labor and equipment rental at the prevailing rate and for the cost of materials provided at the request of the license or lease holder. The purpose of this subsection is to allow the City the opportunity to be reimbursed for any and all out-of-pocket expenses incurred in connection with the license or lease granted to the license or lease holder. The City may waive all or any part of the annual maintenance fee provided herein, if the Council is satisfied that the purpose of the license or lease is to provide a utility service solely for the benefit of a charitable non-profit user or customer who will not be required to pay the installer of the service, or any other party, successor or assign, an annual user fee or any other type fee (other than for installation of said service) for the said utility service. The Council may adopt certain standards, regulations, and requirements which must be satisfied before such waiver may be granted.

**153.04 LIMIT ON TERM.** No franchise shall be granted for a term in excess of 25 years. No license or lease shall be for a term of more than five years. Any proposed lease which shall exceed three years in length shall not be executed by the City until fully complying with the terms of Section 364.7 of the *Code of Iowa*.

**153.05 PLACEMENT OF FACILITIES.** The facilities, fixtures, and equipment of the distribution, transmission, or sale of any utility services, or services provided under license or lease or easement, shall be placed and maintained so as not to unnecessarily or unreasonably

interfere with the travel on the streets, highways, avenues, alleys, bridges, and public places in the City, nor shall such facilities, fixtures, and equipment interfere with the property use of the same, including, but not limited to, ordinary drainage, or the functioning of the sewers, underground pipe, or other property of the City. If facilities, fixtures, and equipment of any person or other entity located within a public right-of-way must be relocated because of paving, road construction, or road reconstruction, sewer construction or sewer reconstruction, or the construction or reconstruction of public drainage systems, or similar public works or the construction or reconstruction of the facilities of any City-owned utility, such relocation, at the written request of the City, shall be completed by the owner of such facilities at the owner's cost. The City shall upon request of any person or other entity holding a franchise, license, or lease, review any plans for the construction of facilities, fixtures, and equipment within the public right-of-way and advise the person or other entity of any conflict such construction may have with planned or anticipated public improvements, but failure of the City to so advise such person or other entity will not relieve the owner of such facilities of its obligation under this chapter. Notwithstanding the foregoing, the City Engineer may require placement of equipment or facilities belonging to any holder of a franchise, license, or lease be limited to locations designated by the City Engineer if such limitation is deemed by the City Engineer to be necessary to protect the integrity of use of present and future users of the public right-of-way or other public property.

**153.06 INDEMNIFICATION AND BOND.** The holder of any franchise, license, or lease shall indemnify and hold the City harmless at all times during the term of the franchise, license, or lease from and against all claims for injury or damage to any person or property, including payments under workers compensation laws, caused by the construction, erection, operation, or maintenance of its facilities, fixtures or equipment, or the negligence of its contractors or its employees. In case of any suit or action at law being commenced against the City, upon any claim for damage arising out of any loss, injury, or damage claimed to have been caused by any installation, improvement, obstruction or excavation made or left in, under or upon such street, sidewalk, alley, or public place by the holder of a franchise, license or lease, its agents, contractors or employees, upon being notified in writing by the City of such action or proceeding, the holder of said franchise, license, or lease shall appear and make proper defense thereto at the expense of the holder of the franchise, license, or lease; and if any judgment or decree shall in any such case be rendered against the City therein, the holder of said franchise, license or lease shall assume, pay and satisfy such judgment or decree, with the cost thereof. Immediately upon issuance of the franchise, license or lease, the holder of the franchise, license or lease shall purchase general liability insurance. The amount of insurance shall be a minimum of \$1,000,000.00 with a maximum deductible of \$5,000.00. The holder of the franchise, license, or lease shall file with the Clerk a certificate of insurance which clearly discloses on its face coverage in conformity with these requirements. Upon request of the City, the holder of the franchise, license, or lease shall submit a certified copy of the policy.

**153.07 REGULATION BY THE CITY.** The City reserves the right to make reasonable general regulations for the use of streets and other public property which, unless otherwise specifically provided, shall apply to any holder of a franchise, license, or lease.

**153.08 CONSTRUCTION AND EXCAVATION BY HOLDERS OF FRANCHISES, LICENSES, OR LEASES.** A written permit must be obtained from the City Engineer whenever it becomes necessary for the holder of any franchise, license, or lease to excavate in streets or public grounds of the City. Such permits shall state a particular part or point of the street where the excavation is to be made and the length of time in which such permit shall authorize the work to be done. An exception to a requirement for a permit shall be made in

cases of emergency involving public safety, in which case a permit will be obtained at the earliest opportunity after the work has started. In making excavations in the streets, the holder of any franchise, license, or lease shall proceed with such work as to cause the least possible inconvenience to the public. The holder of any franchise, license, or lease shall properly protect, according to safety standards generally accepted at the time of placement, as may be determined from time to time by the Public Works Director, all excavation, and obstructions by proper placement of shoring, surface plates, barricades, warning lights, and such other or additional devices as circumstances may warrant. If, in the opinion of the City Engineer, such excavation or obstruction is not properly and safely protected, the City Engineer shall notify such holder of a franchise, license, or lease who shall immediately comply with such reasonable instructions. Immediately after use, any trenches for excavations which the holder of a franchise, license, or lease has opened shall be filled. However, no trench or excavation in the streets shall be filled or covered without giving the City the right to inspect the same. All backfilling in streets will be according to City specifications. Temporary street surfacing will be placed in such excavations as soon as the same has been backfilled. Pavements, sidewalks, curbs and gutters, or other portions of streets and public places opened, disturbed, or damaged shall be promptly restored and replaced with like materials at the expense of the holder of a franchise, license, or lease and left in as good or better condition as before the opening, disturbance, or damage occurred. If like replacement materials are not available, the holder of the franchise, license, or lease shall notify the City Engineer who must approve the use of any alternate materials. If the holder of a franchise, license, or lease fails to comply with the provision of this section, after having been given reasonable notice, the City may do such work as may be needed to properly repair such pavements, sidewalks, curbs and gutters, or other portions of streets and public places and the cost thereof shall be repaid to the City by the holder of the franchise, license, or lease. In cases where a cut or disturbance is made in a section of street paving or sidewalks, but causes greater disturbance than to just the area cut, rather than replace only the area cut, the holder of a franchise, license, or lease shall replace that area as may be ordered by the City Engineer, which in no event shall exceed the panel or panels disturbed.

**153.09 CITY CONSTRUCTION AND PAVING.** Whenever the City shall pave or repave any street or shall change the grade line of any street or public place or shall construct or reconstruct any conduit, water main service or water connection, sewer or other City-owned public works or City-owned utility, it shall be the duty of the holder of any franchise, license, or lease, when so ordered by the City, to relocate its service lines and other property in the streets or other public places at its own expense so as to conform to the established grade or line of such street or public place and so as not to interfere with the public improvements as constructed or reconstructed. In the case of other public improvements, including but not limited to urban renewal projects, the City may require the holder of a franchise, license, or lease to relocate its poles, service lines, and appurtenances in the streets at the owner's expense. The City may at its discretion assign personnel for inspection of excavation and related work being performed by the holder of a franchise, license, or lease. Should the holder of the franchise, license, or lease fail or refuse to do and perform the things provided in this section, the City may, after reasonable notice, perform the work and charge the expense thereof to the holder of the franchise, license, or lease and the holder of the franchise, license, or lease shall pay said charges within 30 days from date of billing, and if not paid within said time, interest shall accrue on the billed amount at the rate of 18 percent per annum from and after the date of billing until paid.

**153.10 DESIGN NOTICE TO CITY.** The holder of a franchise, license, or lease shall promptly, upon request, furnish the City Engineer a detailed map or maps of its distribution system both within the City limits and the area within two miles surrounding the City. The holder of a franchise, license, or lease shall thereafter update the map or maps at least annually



or upon request, showing all subsequent additions or deletions to the distribution system. Prior to any excavation a representative must contact the holder of any franchise, license, or lease regarding current information on the location of underground lines or facilities in the area concerned. The obligation to contact the holder of a franchise, license, or lease under this section shall be satisfied if contact is made with a corporation organized pursuant to Chapter 480 of the *Code of Iowa* or an entity with a similar function utilized by both the City and the company, currently the Iowa One Call System.

**153.11 ABOVE-GROUND CABLES, WIRES, CONDUITS, AND POLES.** All cables, wires, and conduits shall be placed underground except where above-ground connection to buildings or other locations above ground is reasonably necessary. Such above-ground connection shall be by means of poles located, as far as reasonably practical, within alleys. No such poles shall be installed or erected until the City Engineer has approved the proposed location, construction, and pole heights.

**153.12 ASSIGNMENT.** No sale or assignment of any franchise, license, or lease of the use of the public right-of-way or other public property shall be effective until it is approved by the Council and until the holder thereof has filed in the office of the Clerk written notice of the proposed sale, transfer, disposition assignment, such notice to clearly summarize the proposed procedure and the terms and conditions thereof. Such approval by the City shall not be unreasonably withheld. The proposed vendee, assignee, or lessee shall similarly file an instrument, duly executed, reciting such proposal, accepting the terms of the franchise, license, or lease, and agreeing to perform all of the conditions thereof including adequate showing of insurance coverage required under this chapter.

**153.13 FORFEITURE.** The violation of any material portion of a franchise, license, or lease by the holder thereof or its successors or assigns, or its failure to promptly perform any of the provisions of this chapter shall be cause for forfeiture of said franchise, license, or lease and the termination of all rights thereunder. Such forfeiture shall be accomplished by ordinance of the City after written notice to the holder thereof and a continuation of the violation, failure, or default specified on the notice for at least 30 days from the date the notice was served.

**153.14 APPLICATION.** This chapter shall apply to all franchises, license, or leases and easements granted by the City including all existing franchises, licenses, or leases and easements.

**153.15 HOME RULE.** This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25<sup>th</sup> Amendment to the Iowa Constitution granting cities Home Rule powers. To such end any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforceable against the holder of any franchise, license, or lease.

**153.16 NEW TECHNOLOGIES.** Should, within the term of any franchise, license, or lease, developments within the field for which the grant was made offer to the holder thereof the opportunity to effectively, efficiently, and economically serve its customers through use of a substance or material other than those for which the grant was originally made, then the holder of the franchise, license, or lease may petition the Council which, with such requirements or limitation as it deems necessary to protect public health, safety, and welfare, may allow the use of such substances under the terms and conditions of the franchise, license, or lease.

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**CHAPTER 154**

**REGULATING THE PLACEMENT OF  
COMMUNICATION TOWERS AND ANTENNAS**

154.01 Purpose and General Policy	154.09 Application Process
154.02 Definitions	154.10 Additional Requirements
154.03 Local Regulation and Compliance with the Telecommunications Act of 1996	154.11 Noise and Emission Standards
154.04 Lease Required	154.12 Prohibited Placement of Facilities
154.05 Fee Required	154.13 Abandonment
154.06 Limit on Term	154.14 Termination
154.07 Priorities	154.15 Home Rule
154.08 Placement Requirements	154.16 New Technologies

**154.01 PURPOSE AND GENERAL POLICY.** The Council finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety, and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers, and to secure the rights of the City to a return on its investment on public property, it is necessary for the City to establish uniform rules and policies. This chapter is to be interpreted in light of these findings for the benefit of the citizens of the City.

**154.02 DEFINITIONS.** For purposes of this chapter the following term are defined:

1. “Antenna” means a device, dish, or array used to transmit or receive telecommunications signals.
2. “Communications tower” means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed, or on a building.
3. “Height” of a communication tower is the distance from the base of the tower to the top of the structure.
4. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

**154.03 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996.** The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communication towers and antennas after the adoption of the ordinance codified in this chapter.

1. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.
2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.

3. To assure revenues from site leases of City-owned and controlled land and structures reflect fair compensation for use of City property and administration of this chapter.

**154.04 LEASE REQUIRED.** No person or other entity shall use any public property without first obtaining a lease from the City.

**154.05 FEE REQUIRED.** No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

**154.06 LIMIT ON TERM.** No lease for the use of public property shall be granted for a term of more than five years. Any proposed lease which shall exceed three years in length shall not be executed by the City until fully complying with the terms of Section 364.7 of the *Code of Iowa*.

**154.07 PRIORITIES.** Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:

1. All functions of the City.
2. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.
3. Other governmental agencies for uses which are not related to public safety.
4. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business or personal use.

**154.08 PLACEMENT REQUIREMENTS.** The placement of communications antennas or towers on City owned property must comply with the following requirements:

1. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.
2. The antenna or tower will have no adverse impact on surrounding private property.
3. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and adjoining private property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fee shall be established from time to time by resolution of the Council and shall reflect potential expenses and risks to the City and other appropriate factors.
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.
5. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the subsections above.
6. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.

7. The applicant must reimburse the City for any costs which the City incurs because of the presence of the applicant's antenna or tower.
8. The user must obtain all necessary land use approval.
9. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate antenna sites requested.

**154.09 APPLICATION PROCESS.** All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the Clerk a completed application accompanied by a fee of \$150.00 and the following documents, if applicable:

1. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
2. A site plan drawn to scale 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, landscape plan, and existing land uses on adjacent property. It shall also set out all underground utilities on or under public property. A site plan is not required if the antenna is to be mounted on an approved existing structure.
3. A current map or update for an existing map on file showing locations of applicant's antennas, facilities existing towers, and proposed towers which are reflected in public records, serving any property within the City.
4. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision, standards.
5. Identification of the owners of all antennas and equipment to be located on the site.
6. Written authorization from the site owner for the application.
7. Evidence that a valid FCC license for the proposed activity has been issued.
8. A line-of-sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
9. A written agreement to remove the tower or antenna within 180 days after cessation of use.
10. Additional information, as required, to determine that all applicable zoning regulations are met.
11. Any communication facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to:
  - A. Communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City; or
  - B. Camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.

Upon showing of hardship, the Council may waive one or more of the foregoing requirements.

**154.10 ADDITIONAL REQUIREMENTS.** Applicant must also show evidence that all of the following conditions, which are applicable, are met:

1. Applicant must show that the proposed communications tower, antenna, or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.
2. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.
3. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
4. Applicant must provide the names, addresses, and telephone numbers of all owners of other towers or useable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant (i) made diligent but unsuccessful efforts for a minimum of 40 days prior to the submission of the application to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site, or (ii) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.
5. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.
6. Applicant must show that all applicable health, nuisance, noise, fire, building, and safety code requirements are met.
7. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles, and trees. At minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray, or black. No signs or advertising displays of any kind may be attached to any such tower or antenna.
8. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Clerk a written indemnification of the City and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in aggregate which may arise from operation of the facility during its life, at no cost to the City, in a form approved by the City Attorney.

9. Land use regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and other general zoning district regulations except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:
- A. Residential (R-1 and R-2). No tower or antenna shall be permitted in a residential district.
  - B. Commercial (C-1 and C-2). Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.
  - C. Industrial (M-1 and M-2). Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.
  - D. Other (A-Agricultural). Free-standing or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.
10. A tower must be a minimum distance equal to one and one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirements or 25 percent of the tower height, whichever is greater.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within 60 days after all application materials are received. Upon showing of hardship the Council may waive one or more of the foregoing requirements.

**154.11 NOISE AND EMISSION STANDARDS.** No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a backup generator, where the noise standards may be exceeded temporarily. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

**154.12 PROHIBITED PLACEMENT OF FACILITIES.** The placement and maintenance of communications antennas or towers are prohibited upon City water towers and in City parks.

**154.13 ABANDONMENT.** In the event the use of any communication tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Clerk who shall have the right to request documentation or affidavits from the communication tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner or operator who makes actual use of the tower, or (ii) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception or variance approval for the tower shall automatically expire.

**154.14 TERMINATION.** The Council may terminate any lease if it is determined that any one of the following conditions exist.

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.
2. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
3. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

**154.15 HOME RULE.** This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25<sup>th</sup> Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

**154.16 NEW TECHNOLOGIES.** Within the term of any lease, should developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient, and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety, and welfare, may allow the use of such substances under the terms and conditions of the lease.

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## CHAPTER 155

# DESIGN GUIDELINES FOR CITY SQUARE AREA

155.01 Purpose  
155.02 Definitions  
155.03 Objectives  
155.04 Goals

155.05 Review  
155.06 Standards  
155.07 Regulations  
155.08 Variance

**155.01 PURPOSE.** The purpose of these design guidelines is to guide future development and redevelopment around the City Square area so that it creates more vital commercial cores, protects the commercial center, promotes the use of quality building materials, enhances the streetscape on the public streets, and continues to maintain the character of the area, and is compatible with the existing structures of the area.

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

1. “Architectural design” means the scale, height, mass, proportion, color, form, style, detail, treatment, texture, construction material, and overall design of a building or development; to lessen the plainness of appearance from the streetscape.
2. “Architectural element” means a part, portion, or projection that contributes to the appearance and character of a building or structure that is not necessarily required for the structural integrity of the structure, ornamental, or decorative in nature.
3. “Architectural materials” means those materials that are utilized on the exterior of a structure, which are visible from the outside of such structure.
4. “Blank wall” means any building side, visible from the streetscape that contains no or very limited, architectural design or features.
5. “Compatibility” means neighboring buildings should fit well together in appearance of architectural design and style, as viewed from the streetscape, but this does not mean that all buildings must look or be constructed alike.
6. “Public street” means, for the purpose of these guidelines, dedicated public streets that are owned or maintained by the City, not including alleys or private drives.
7. “Quality materials” means those materials that are durable and display high quality appearance.
8. “Streetscape” means the scene from a public street or way, composed of natural and manmade elements, including buildings, paving, plantings, signs, and miscellaneous structures and items.

**155.03 OBJECTIVES.**

1. The design guidelines are intended to address the built environment within the area of the City Square.
2. The design guidelines are intended to insure that new development and redevelopment are representative of the City Square area and the image that the City Square area currently projects.

3. The design guidelines will enable development to occur in a manner that will be beneficial to the City Square area, but will also have a positive impact on surrounding properties and the entire community.

**155.04 GOALS.** The goals of the design guidelines are as follows:

1. To promote a positive image throughout the City Square area through development and redevelopment.
2. To create attractive, functional, and lasting buildings and places in the City Square area.
3. To ensure development is cohesive with the surrounding, existing development.
4. To promote quality design that preserves and enhances the character of the City Square area.
5. To strengthen ties to the historic nature of the City Square area.
6. To encourage the use of quality materials in development of the area.
7. To create an environment where quality businesses can succeed.

**155.05 REVIEW.** Architectural plans for building development or redevelopment within the City Square area shall be submitted to the Council for review, study, and consideration by the City Planning and Zoning Commission and recommendation to the Council. Such review by the Commission shall consider the following design guideline standards.

**155.06 STANDARDS.**

1. All guidelines relate and apply only to the exterior of structures.
2. Only those areas or portions of a building or structure that are directly visible from a public street shall be required to meet these guidelines.
3. These guidelines are not intended to address interior building materials or those portions of structures that are not visible from a public street.
4. In no case may these guidelines be used to replace or override any other requirements of the Planning and Zoning Commission regulations or adopted building codes.

**155.07 REGULATIONS.**

1. General.
  - A. All sides of buildings visible or open to view from the public street shall be brick and treated with similar levels of architectural design.
  - B. Upper-story areas shall be brick and utilize architectural elements and design of similar fashion to the main floor of a structure.
  - C. The street views shall be preserved with building orientation or layout facing towards (parallel to) the adjacent public street.
  - D. All negative aspects of buildings (loading docks, loading areas, outside storage areas, trash dumpsters, HVAC units, etc.) shall be adequately treated or screened if visible from a public street.

- E. Light sources shall be concealed or shielded to the maximum extent necessary in order to reduce and minimize the effects of light glare, light pollution, and light trespass onto adjacent properties and away from the vision of passing motorists.
2. Commercial.
- A. Prominent exterior building materials shall be of high-quality brick.
  - B. Building sides fronting a public street shall also utilize brick.
  - C. Additions to existing structures shall utilize quality architectural materials that match or complement the existing exterior materials and that harmonize with existing adjacent structures.
  - D. Blank walls shall not be allowed along or facing public streets.
  - E. All negative aspects of buildings (loading docks, loading areas, outside storage areas, trash dumpsters, HVAC units, etc.) shall be adequately treated or screened if visible from a public street or parking lot.

**155.08 VARIANCE.** Requests for variance from the requirements of this chapter are to be filed with the Zoning Board of Adjustment for the City.

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## CHAPTER 156

# ANNEXATION

156.01 Definition  
156.02 Voluntary Annexation  
156.03 Decision of Annexation

156.04 Involuntary Annexation  
156.05 Zoning Newly Annexed Land

**156.01 DEFINITION.** For purposes of this chapter the following term is defined:

1. “Annexation” means the addition of land to the City.

**156.02 VOLUNTARY ANNEXATION.** All of the owners of land adjoining the City may apply in writing to the Council requesting annexation of land. Land comprised of a railway right-of-way may be included in the application without the consent of the railway if a copy of the application is mailed by certified mail to the owner of the right-of-way, at least 10 days prior to the filing of the application with the Council. The application must contain the following:

1. Owner. The names of the property owners of the tract to be annexed.
2. Map. A map of the land to be annexed showing its location with reference to existing corporate boundaries.
3. Legal Description. An accurate legal description of the land to be annexed.

**156.03 DECISION OF ANNEXATION.** The Council may consider the application for annexation of land at a regularly scheduled meeting, or at a special meeting, at which time the Council may approve or disapprove the application for annexation, or table the action for any reason the Council deems appropriate.

**156.04 INVOLUNTARY ANNEXATION.** The Council may initiate annexation proceedings as provided under Chapter 368 of the *Code of Iowa*.

**156.05 ZONING NEWLY ANNEXED LAND.** All land annexed to the City under this chapter will be zoned residential.

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## CHAPTER 165

# ZONING REGULATIONS

EDITOR'S NOTE		
Ordinance No. 128 entitled "AN ORDINANCE ESTABLISHING ZONING RULES, REGULATIONS, USES, AND RESTRICTIONS IN THE TOWN OF WEST POINT, IOWA," adopted July 3, 1972, and amendments thereto have not been included as a part of this Code, but have been specifically saved from repeal and are in full force and effect. The following ordinances have been adopted amending Ordinance No. 128.		
<b>ORDINANCE</b>	<b>ADOPTED</b>	<b>SUBJECT</b>
159	June 6, 1977	Land Requirements
179	May 5, 1980	Amend Zoning Map
204	August 13, 1984	Amend Zoning Map
207	July 8, 1985	Amend Zoning Map
226	November 11, 1991	Amend Zoning Map
233	December 12, 1994	Adopt Revised Zoning Map
240	January 8, 1996	Amend Zoning Map
242	December 11, 1995	Amend Zoning Map
243	February 12, 1996	Amend Zoning Map
244	August 13, 1996	Amend Zoning Map
250	March 9, 1998	Minimum Housing Standards, including Standards for Manufactured Housing
261	November 12, 2001	Amend Zoning Map
266	February 14, 2005	Zero Lot Line in Residential Districts
276-08	August 11, 2008	Rezoning from Residential to Business District
283-10	June 14, 2010	Rezoning from Residential to Business District

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## CHAPTER 170

# SUBDIVISION REGULATIONS

170.01 Short Title	170.12 Requirements of the Final Plat
170.02 Purpose	170.13 Final Plat Attachments
170.03 Definitions	170.14 Action by the Planning and Zoning Commission
170.04 Platting Required	170.15 Action by the Council
170.05 Procedure	170.16 General Requirements
170.06 Requirements of Preliminary Plat	170.17 Improvements Required
170.07 Referral of Preliminary Plat	170.18 Completion of Improvements
170.08 Action by the Subdivision Official	170.19 Performance Bond
170.09 Action by the Planning and Zoning Commission	170.20 Variances
170.10 Final Plat	170.21 Changes and Amendments
170.11 Referral of Final Plat	

**170.01 SHORT TITLE.** This chapter shall be known and may be cited as “The City of West Point, Iowa, Subdivision Ordinance.”

**170.02 PURPOSE.** The purpose of this chapter is to establish minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety, and general welfare in the City.

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

1. Words beginning with “A.”
  - A. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. Words beginning with “B.”
  - A. “Block” means an area of land within a subdivision that is entirely bounded by streets or highways, or the exterior boundaries of the subdivision.
  - B. “Building lines” or “Setback lines” means a line on a plat between which line and public right-of-way no buildings or structures may be erected.
3. Words beginning with “C.”
  - A. “Commission” means the Planning and Zoning Commission of the City.
  - B. “Cul-de-sac” means a minor street having one end open to traffic and terminated by a vehicular turn-around.
4. Words beginning with “D.”
5. Words beginning with “E.”
  - A. “Easement” means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons, and within the limits of which the owner or person in possession shall not erect any permanent structures.
6. Words beginning with “F.”

7. Words beginning with “G.”
8. Words beginning with “H.”
9. Words beginning with “I.”
10. Words beginning with “J.”
11. Words beginning with “K.”
12. Words beginning with “L.”
  - A. “Lot” means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.
13. Words beginning with “M.”
  - A. “Major street” means a street of considerable continuity connecting various sections of a City designated as a major street on the official major street in the City’s Comprehensive Plan.
  - B. “Master plan” means it is synonymous with City Plan or Comprehensive Plan and which has been adopted by the City Planning and Zoning Commission and which is a plan for the orderly growth of the City.
  - C. “Minor street” means a street which is used primarily for access to the abutting properties.
14. Words beginning with “N.”
15. Words beginning with “O.”
16. Words beginning with “P.”
  - A. “Performance bond” means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City, and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
  - B. “Plat” means a map, drawing, or chart on which the subdivider’s plan of the subdivision of land is presented and which they submit for approval and intend, in final form, to record.
17. Words beginning with “Q.”
18. Words beginning with “R.”
19. Words beginning with “S.”
  - A. “Subdivider” means a person, firm, or corporation undertaking the subdivision or resubdivision of a tract or parcel of land.
  - B. “Subdivision” means the division of land into three or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or, the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

C. “Subdivision Official” means the official designated by the Council to administer this chapter. The City Engineer or any other City official may be designated by the Council to act in such capacity.

20. Words beginning with “T.”
21. Words beginning with “U.”
22. Words beginning with “V.”
23. Words beginning with “W.”
24. Words beginning with “X.”
25. Words beginning with “Y.”
26. Words beginning with “Z.”

**170.04 PLATTING REQUIRED.** Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot or lots, acreage, or suburban lots within the City or within two miles from the corporate limits, 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. As provided under Section 354.9 of the *Code of Iowa*, the City specifically reserves the right to review subdivisions outside the corporate boundaries and requires all subdivisions within two miles of the corporate limits or boundaries to comply with the requirements of this chapter, including all amendments thereto.

**170.05 PROCEDURE.** In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

**170.06 REQUIREMENTS OF PRELIMINARY PLAT.** The subdivider shall first prepare and file with the Clerk five copies of a preliminary plat conforming in detail to the requirements set forth in this chapter. Seven copies of the preliminary plat shall be submitted for subdivisions outside the corporate limits of the City. The preliminary plat shall be accompanied by a fee of \$30.00 payable to the City. The preliminary plat shall be of adequate scale and size and shall show the following:

1. Title, scale, north point, and date.
2. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys, and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of streetlights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords, and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other semi-public or community purposes.

7. Present and proposed easements, showing locations, widths, purposes, and limitations.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation, and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
12. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the Commission waives this requirement.
13. Existing and proposed zoning subdivision and adjoining property.

**170.07 REFERRAL OF PRELIMINARY PLAT.** The Clerk shall forthwith refer two copies of the preliminary plat to the subdivision official and two copies to the Planning and Zoning Commission, and one copy shall be kept in the office of the Clerk. In the case of a subdivision outside the corporate limits, the Clerk shall refer two copies of the preliminary plat to the County Board of Supervisors.

**170.08 ACTION BY THE SUBDIVISION OFFICIAL.** The Subdivision Official shall carefully examine said preliminary plat as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices, and shall, as soon as possible, submit their findings in duplicate to the Planning and Zoning Commission, together with one copy of the plat received. The Subdivision Official shall also submit their findings together with one copy of the plat received to the Utility Board of Trustees for review and comment.

**170.09 ACTION BY THE PLANNING AND ZONING COMMISSION.** The Planning and Zoning Commission shall, upon receiving the report of the Subdivision Official, as soon as possible, but not more than 30 days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by them, and pass upon the preliminary plat as originally submitted or modified. If the Planning and Zoning Commission does not act within 30 days, the preliminary plat shall be deemed to be approved; provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional 60 days. It shall then set forth its recommendations in writing, whether of approval, modification, or disapproval.

1. In the event that substantial changes or modifications are made by the Planning and Zoning Commission or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. If approved, the Planning and Zoning Commission shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.
3. The action of the Planning and Zoning Commission shall be noted on two copies of the preliminary plat, referenced, and attached to any conditions determined.

One copy shall be returned to the subdivider and the other copies retained by the Commission.

4. The “Conditional Approval” by the Planning and Zoning Commission shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

**170.10 FINAL PLAT.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

**170.11 REFERRAL OF FINAL PLAT.** The subdivider shall, within six months of the “Conditional Approval” of the preliminary plat by the Planning and Zoning Commission, prepare and file five copies of the final plat and other required documents with the Clerk as hereafter set forth, and upon their failure to do so within the time specified, the “Conditional Approval” of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Planning and Zoning Commission. Seven copies of the final plat shall be submitted for subdivisions outside the corporate limits of the City. Upon receipt of the final plat and other required documents, the Clerk shall transmit two copies of the final plat to the Subdivision Official and two copies of the final plat to the Planning and Zoning Commission for its recommendations and approval. In the case of a subdivision outside of the corporate limits, the Clerk shall refer two copies of the final plat to the County Board of Supervisors.

**170.12 REQUIREMENTS OF THE FINAL PLAT.** The final plat shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch with India ink on a reproducible tracing linen. It shall show:

1. The title under which the subdivision is to be recorded.
2. A correct legal description of the platted area.
3. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets, and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
4. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City plan.
5. Location, type, materials, and size of all monuments and markers including all U. S., County, or other official benchmarks.
6. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

**170.13 FINAL PLAT ATTACHMENTS.** The final plat shall have the following attached to it:

1. A certificate by the owner and their spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer is authorized to take the acknowledgements of deeds.

*(Code of Iowa, Sec. 558.20)*

2. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner and that the land is free from encumbrances other than those secured by an encumbrance bond.
3. A certificate from the County Treasurer stating that the subdivision land is free from taxes.
4. A certificate from the Clerk of the District Court that the subdivision land is free from all judgments, attachments, or mechanics or other liens of record in their office.
5. A certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.
6. A certificate of dedication of streets and other public property.
7. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
8. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
9. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size, and grade. These should be shown on a 50 foot horizontal scale and a five foot vertical scale with west or south at the left.
10. A certificate by the Subdivision Official that all required improvements and installations have been completed, or 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.
11. The encumbrance bond, if any.

**170.14 ACTION BY THE PLANNING AND ZONING COMMISSION.** The Planning and Zoning Commission shall, upon receiving the final plat, as soon as possible, but not more than 30 days thereafter, consider the final plat, and, if the same is approved, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Planning and Zoning Commission.

**170.15 ACTION BY THE COUNCIL.** Upon receipt of the certification by the Planning and Zoning Commission the Council shall, within a reasonable time, either approve or disapprove the final plat.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. The passage of a resolution by the Council accepting that plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

**170.16 GENERAL REQUIREMENTS.** The following general requirements shall be followed by all subdividers:

1. Relation to Existing Streets.
  - A. The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their proposed uses of the streets.
  - B. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
2. Minor Streets.
  - A. Minor streets shall be so planned as to discourage through traffic.
  - B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than 500 feet and shall terminate with a turn-around, having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The right-of-way width of the straight portion of such streets shall be a minimum of 50 feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than 20 feet.
3. Half-Streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
4. Minimum Right-of-Way Widths. The following are established minimums for right-of-way widths:
  - A. Major streets shall be not less than 60 feet in width.
  - B. Minor streets and cul-de-sacs shall be not less than 50 feet in width.
  - C. Alleys and service drives shall be not less than 20 feet in width.
  - D. Easements for utilities, where required, shall be not less than 15 feet in width.
5. Minimum Pavement Widths. The minimum pavement widths for major and minor streets, including the straight portions of cul-de-sacs shall be 29 feet wide, back-to-back of curb. The pavement of a turning circle at the end of a cul-de-sac shall have a minimum outside diameter of 36 feet. All such streets shall be constructed with a curb and gutter.

6. Intersections.
  - A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
  - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.
  - C. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the Planning and Zoning Commission may deem it necessary. The Planning and Zoning Commission may permit comparable cutoffs or chords in place of rounded corners.
7. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Planning and Zoning Commission.
8. Street Grades.
  - A. Street grades, wherever feasible, shall not exceed five percent, with due allowance not for reasonable vertical curves.
  - B. No street grade shall be less than one-half of one percent.
9. Alleys.
  - A. Alleys shall be provided in commercial and industrial districts, except that the Planning and Zoning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.
  - B. The width of an alley shall be 20 feet.
  - C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
  - D. Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the Planning and Zoning Commission.
10. Blocks.
  - A. No block may be more than 900 feet or less than 500 feet in length between the center lines of intersecting streets, except where, in the opinion of the Planning and Zoning Commission, extraordinary conditions unquestionably justify a departure from these limits.
  - B. In blocks over 700 feet in length, the Planning and Zoning Commission may require at or near the middle of the block a public way or easement of not less than 10 feet in width for use by pedestrians or an easement for public utilities.



11. Lots.
  - A. The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
  - B. Minimum lot dimensions and sizes shall conform to the requirements of the Zoning Code. Provided:  
*(Code of Iowa, Sec. 414.21)*
    - (1) Residential lots where not served by public sewer shall not be less than 80 feet wide nor less than 10,000 square feet in area, unless the requirements of the Board of Health require a greater lot area because of soil conditions.  
*(Code of Iowa, Sec. 414.21)*
    - (2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
    - (3) Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.
  - C. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.
  - D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
  - E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
12. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Planning and Zoning Commission may require building lines in accordance with the needs of each subdivision.
13. Easements.
  - A. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least 15 feet wide.
  - B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.
14. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the Subdivision Official. The markers shall be of such material, size, and length as may be approved by the Subdivision Official.

**170.17 IMPROVEMENTS REQUIRED.** The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the Subdivision Official.
2. Roadways. All roadways shall be surfaced with Portland cement concrete or an asphaltic concrete over a crushed stone base or a seal coat over a crushed stone base as the Planning and Zoning Commission and the Council may require.
3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Subdivision Official.
4. Sidewalks. Sidewalks shall be required throughout the entire subdivision. If the Council considers sidewalks unnecessary for the general welfare and safety of the community or for other good reason, the Council may waive this requirement for an entire subdivision or a portion thereof. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Subdivision Official.
5. Utilities. The subdivider shall provide for each lot within the subdivision adequate water supply, sanitary sewer, and disposal of stormwater.

**170.18 COMPLETION OF IMPROVEMENTS.** Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the Subdivision Official shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

**170.19 PERFORMANCE BOND.** The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one year from final acceptance of the plat; but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

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**170.20 VARIANCES.** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may vary, modify, or waive the requirements so that substantial justice may be done, and the public interest secured. Provided, however, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements, and in no instance, shall it be in conflict with any zoning ordinance, and such variances and waivers may be granted only by the affirmative vote of three-fourths of the members of the Council.

**170.21 CHANGES AND AMENDMENTS.** Any regulations or provisions of this regulation may be changed and amended from time to time by the Council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four nor more than 20 days before the date of the hearing.

*(Code of Iowa, Sec. 362.3)*

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NUMBER

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# APPENDIX TO CODE OF ORDINANCES

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## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

**1. OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

**2. DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

**3. SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

**4. RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

**RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

**SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

**DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

**AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

**ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:



ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF \_\_\_\_\_ STREET

BE IT ENACTED by the City Council of the City of \_\_\_\_\_, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of \_\_\_\_\_, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. \_\_\_\_\_ Street, on the \_\_\_\_\_ side, from \_\_\_\_\_ Street to \_\_\_\_\_ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON \_\_\_\_\_ STREET.

BE IT ENACTED by the City Council of the City of \_\_\_\_\_, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of \_\_\_\_\_, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on \_\_\_\_\_ Street to stop at \_\_\_\_\_ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No.\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of \_\_\_\_\_, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of \_\_\_\_\_, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of \_\_\_\_\_ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$\_\_\_\_\_ dollars per \_\_\_\_\_.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. \_\_\_\_

AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO \_\_\_\_\_, IOWA

Be It Enacted by the City Council of the City of \_\_\_\_\_, Iowa:

SECTION 1. The (location or legal description of street or alley) to \_\_\_\_\_, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, and approved this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

**SUGGESTED FORMS**

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**FIRST NOTICE – DANGEROUS BUILDING**

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of \_\_\_\_\_, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**NOTICE OF HEARING ON DANGEROUS BUILDING**

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of \_\_\_\_\_, Iowa, will meet on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as \_\_\_\_\_, constitutes a nuisance pursuant to Chapter \_\_\_\_\_ of the Code of Ordinances of \_\_\_\_\_, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of \_\_\_\_\_, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**RESOLUTION AND ORDER  
REGARDING DANGEROUS BUILDING**

**BE IT RESOLVED**, by the City Council of the City of \_\_\_\_\_, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within \_\_\_ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

**WHEREAS**, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

**WHEREAS**, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

**NOW THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within \_\_\_ days after the service of this Order upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

**BE IT FURTHER RESOLVED** that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property or owner (owner’s name) at (address), as the law shall provide.

Moved by \_\_\_\_\_ to adopt.

Adopted this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**Note:** It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

**NOTICE TO ABATE NUISANCE**

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of \_\_\_\_\_, Iowa

By: \_\_\_\_\_  
(designate officer initiating notice)



NOTICE

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within \_\_\_\_\_ (\_\_\_\_) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The nearest public sewer line within \_\_\_\_\_ (\_\_\_\_) feet of the above described property is located

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: \_\_\_\_\_

City of \_\_\_\_\_, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that the City Council of \_\_\_\_\_, Iowa, will meet on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of \_\_\_\_\_, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of \_\_\_\_\_, Iowa:

WHEREAS, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, on \_\_\_\_\_, (Name of Property Owner) through \_\_\_\_\_, Agent, (Agent's Name or "None")

to make connection of the property described as \_\_\_\_\_

to the public sanitary sewer located \_\_\_\_\_ within \_\_\_\_\_ (\_\_\_\_\_) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, \_\_\_\_\_ (Name of Owner or Agent)

is hereby directed and ordered to make such required connection within \_\_\_\_\_ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

**BE IT FURTHER RESOLVED**, that in the event the owner, or agent,

\_\_\_\_\_ ,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property or owner

\_\_\_\_\_

(Owner's Name)

\_\_\_\_\_, as provided by law.

(Address)

Moved by \_\_\_\_\_ to adopt.

Seconded by \_\_\_\_\_.

AYES: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

NAYS: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

Resolution approved this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk