

Added  
08-23-05

# CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998

*Adopted June 15, 1998, by Ordinance No. 1998-02*

## SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	Repeals, Amends or Adds	Ord. No.	Date	Subject
Sep-98	3.03(1)	1998-03	9-1-98	Civil Penalties
		1998-04		Not Adopted
	60.06 & 62.01	1998-05	9-1-98	Traffic Regulations
	120.05(11)	1998-06	9-1-98	Sale of Alcohol
	121.01, 121.07, 121.08 & 121.09	1998-07	9-1-98	Cigarette Permits
	146.01 & 146.02	1998-08	9-1-98	Manufactured & Mobile Homes
Oct-99	95.05	1998-02	1-4-99	Sewer Connection Required
	Ch. 92	1999-01	2-16-99	Water Rates
	Ch. 99	1999-02	2-16-99	Sewer Rates
	96.09	1999-03	6-1-99	Sewer Anti-Backflow Device
	3.03(1)	1999-04	6-1-99	Civil Penalties
	65.02(13), 65.03(3)	1999-05	8-2-99	Three-way Stop
Dec-00	Ch. 44 of Ord. No. 1984-4	1999-06	12-15-99	Subdivision Regulations
	65.02(23)	2000-01	6-1-00	Stop
	Ch. 160	2000-02	10-2-00	Flood Plain Regulations
	55.06	2000-03	11-1-00	Animals at Large
Feb-01		2000-04		Not Adopted
	121.07(3 & 4)	2000-05	1-4-01	Cigarette Permits
	1.10	2000-06	12-18-00	Standard Penalty
	92.08	2000-07	12-18-00	Lien Notice
Nov-01	Ch. 24	2001-01	7-2-01	Historic Preservation Commission
	92.11	2001-02	7-10-01	Special Water Rates
	15.04	2001-03	8-15-01	Mayor Compensation
	17.06	2001-04	8-15-01	Council Compensation
	15.03 (2)	2001-05	9-17-01	Police Chief Appointment
	15.05	2001-06	9-17-01	Voting by Mayor
	55.11	2001-07	10-1-01	Confinement of Animals
Nov-02	63.04(2 & 3)	2002-01	5-1-02	Special Speed Zones
	Ch. 10	2002-02	6-3-02	Manly Urban Renewal Area
	92.02	2002-03	6-3-02	Water Rates
	Ch. 112; Ch. 113	2002-04	7-15-02	Cable TV Franchise and Regs.
	62.12	2002-05	8-15-02	Engine and Compression Brakes
	92.04(1 & 2)	2002-06	10-1-02	Billing for Water Service
	112.35	2002-07	11-14-02	Extend Cable Television Franchise Acceptance Date
	6.04	2002-08	11-4-02	City Elections
	18.12(1)	2002-09	11-4-02	Clerk's Election Duties

PLACE IN FRONT SECTION OF CODE ALONG WITH THE ADOPTING ORDINANCE  
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## SUPPLEMENT RECORD

[illegible]

PLACE IN FRONT SECTION OF CODE ALONG WITH THE ADOPTING ORDINANCE  
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### MICELLANEOUS CHARGES

	Police report charge.	\$ 4.00
	Civil papers served.	\$12.00
	Copies	\$ .25/copy
Chapter 80 Sec. 80.06	Fee for vehicle impoundment.	As charged by impound facility.
Chapter 55 Sec. 55.14	Fees for impoundment of animals.	\$10.00/1st occurrence. \$25.00/2nd occurrence. \$50.00/3rd and any after.

\*\*\* Facility costs for impoundment may vary and are charged in addition to the fee for the violation of City Ordinance.\*\*\*

\*\*\* This is based on the number of pick-ups in any twelve consecutive months\*\*\*

Chapter 136 Sec. 136.03	Snow Removal	\$1.00/lineal foot.
Chapter 122 Sec. 122.03	Peddlers: Per day - Yearly - Religious/ Charitable	\$5.00 Same Same
Chapter 123 Sec. 123.02	House Movers	\$25.00
Chapter 124 Sec. 124.03	Junk dealers/ Junk Yards	\$100.00/year
Chapter 155 Sec. 155.04	Billboards	\$ 0.05 per square foot.

### LICENSE AND PERMITS

Chapter 120 Sec. 120.01	Liquor & Beer Permits	Established by the state.
Chapter 121 Sec. 121.02	Cigarette Permits	Established by the state.
Chapter 41 Sec. 41.11	Fireworks Permit	



Chapter 56	Dog & Cat License	
Sec. 56.03	- neutered	\$ 3.00 ea.
	- unneutered	\$ 5.00 ea.

\*\*\* There will be assessed a \$1.00 penalty per month for every month the owner of the animal is delinquent. \*\*\*

#### WATER SERVICE

Chapter 92	- Utility Deposit	\$ 65.00
Sec. 92.05		
Chapter 90	- Inspection, & permit	\$ 10.00
Sec. 90.06	- Connection Charge	\$170.00
	(3/4" line)	
	- Connection Charge	\$195.00
	(1" line)	

#### WATER METERS

Chapter 91	- Purchase of meter	Cost of meter
Sec. 91.06		at time of
		purchase.
Chapter 91	- Installation	\$10.00
Sec. 91.07		

#### MAIN HYDRANT DEPOSIT

Chapter 92	Service deposit	\$100.00
Sec. 92.10		

#### WATER USAGE RATES

Chapter 92	- Minimum usage bill	\$23.25/qtr.
Sec. 92.02	- 0 to 4000 gal.	\$23.25/qtr.
	- 4001 to 50,000 gal.	\$ 1.10/qtr. @
	- 50,001 to 499,000 gal.	\$ .40/qtr. @
	- 500,000 gal. & up.	\$ 1.35/qtr. @
Chapter 92	Rates outside the City	\$ 2.00/qtr.
Sec. 92.03	will be an additional flat	
	rate.	

\*\*\* Note: All persons with City water service shall be responsible to pay a minimum payment for support of the water system. This minimum is also the base charge to which any additional usage charges are added to. \*\*\*

BUILDING PERMITS - VALUE BASED:

Chapter 43 Sec. 43.05	- Less than \$100.00	\$ NO FEE
	- \$101 - \$400	\$ 3.00
	- \$401 - \$700	\$ 5.00
	- \$701 - \$1000	\$ 6.00
	- for each additional \$1000 up to and including \$25,000	\$ 3.00
	- for each additional \$1000 up to and including \$50,000	\$ 2.50
	- for each additional \$1000 up to and including \$100,000	\$ 1.50
	- over \$100,000	\$ 1.00
	Appeals to Board of Adjustment	\$ 10.00
	Conditional Use Permit	\$ 10.00
	Request for Variance or Zoning amendment	\$ 10.00

**CODE OF ORDINANCES**  
**OF THE**  
**CITY OF**  
**MANLY, IOWA**  
**1998**

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**ORDINANCE NO. 1998-02**

**AN ORDINANCE ADOPTING THE "CODE OF ORDINANCES  
OF THE CITY OF MANLY, IOWA, 1998"**

BE IT ENACTED by the City Council of the City of Manly, Iowa, that:

SECTION 1. Pursuant to published notice and following public hearing on the 15 day of June, 1998, so required by Sections 362.3 and 380.8, Code of Iowa, there is hereby adopted by the City of Manly, Iowa, the "CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998."

SECTION 2. All of the provisions of the "CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998," shall be in force and effect on and after the effective date of this ordinance.

SECTION 3. All ordinances or parts thereof in force on the effective date of this ordinance are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

SECTION 4. The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authorizing the issuance of any bonds of said City or any evidence of said City's indebtedness or any contract or obligation assumed by said City; nor shall said repeal affect the administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of "THE CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998"; nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council or any other person or corporation; nor shall it affect any ordinance naming, establishing, relocating or vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance.

SECTION 5. The following ordinances, passed subsequent to the preparation of this code but prior to adoption of this code, are hereby adopted and made a part of this code. These are ordinances none,                     ,                     ,                     . Said ordinances shall be codified and incorporated in published copies of this code as supplements thereto following adoption of this ordinance.

SECTION 6. An official copy of the "CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998," adopted by this ordinance, including a certificate of the City Clerk as to its adoption and the effective date, is on file in the office of the City Clerk, and shall be kept available for public inspection.

SECTION 7. The City Clerk shall furnish a copy of the "CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998," to the Judicial Magistrates serving the City of Manly.

SECTION 8. This ordinance shall be in full force and effect from and after the publication of this ordinance, as required by law.

Passed by the Council of the City of Manly, Iowa, the 15 day of June, 1998.

Michael H. Romig  
MAYOR

ATTEST: Zelda M. Loh  
CITY CLERK

#### CLERK'S CERTIFICATE

I hereby certify that the foregoing Ordinance No. 1998-02 was published as required by law on the 2 day of July, 1998.

SIGNED Zelda M. Loh  
CITY CLERK

# CLERK'S CERTIFICATE

State of Iowa )

County of Worth )

SS

I, Zelda M Groh, City Clerk of the City of Manly, Iowa, hereby certify that the "CODE OF ORDINANCES OF THE CITY OF MANLY, IOWA, 1998," was adopted by the City Council of the City of Manly, Iowa, and that an official copy of said Code of Ordinances is on file at the office of the City Clerk, City of Manly, Iowa, and that Ordinance No. 1998-02 adopting said Code of Ordinances was passed by the City Council of the City of Manly, Iowa, on the 15 day of June, 1998, signed by the Mayor on the 15 day of June, 1998; duly recorded and published as provided by law, and that the effective date of said Code is July 2, 1998.

Witness my hand and official seal of the City of Manly, Iowa, this 15 day of June, 1998.

SIGNED:

Zelda M Groh  
CITY CLERK  
CITY OF MANLY, IOWA

***Adopted \_\_\_\_\_, 19\_\_\_\_, by Ordinance No. \_\_\_\_\_***

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## CHAPTER 1

# CODE OF ORDINANCES

1.01 Title  
1.02 Definitions  
1.03 City Powers  
1.04 Indemnity  
1.05 Personal Injuries  
1.06 Rules of Construction

1.07 Amendments  
1.08 Catchlines and Notes  
1.09 Altering Code  
1.10 Standard Penalty  
1.11 Severability

**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Manly, Iowa, 1998.

**1.02 DEFINITIONS.** Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances:

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the City of Manly, Iowa.
3. "Clerk" means the city clerk of Manly, Iowa.
4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. "Code of Ordinances" means the Code of Ordinances of the City of Manly, Iowa, 1998.
6. "Council" means the city council of Manly, Iowa.
7. "County" means Worth County, Iowa.
8. "Measure" means an ordinance, amendment, resolution or motion.
9. "Month" means a calendar month.
10. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Manly, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Preceding" and "following" mean next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
21. "State" means the State of Iowa.
22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
23. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.
24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.
25. "Year" means a calendar year.



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

*(Code of Iowa, Sec. 364.1)*

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

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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

*(Code of Iowa, Sec. 718.5)*

**1.10 STANDARD PENALTY.** Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall be guilty of a simple misdemeanor and, upon conviction, be subject to a fine of not more than one hundred dollars (\$100.00) or imprisonment not to exceed thirty (30) days.

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

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

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## CHAPTER 2

### CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

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

**2.01 TITLE.** This chapter may be cited as the charter of the City of Manly, Iowa.

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

*(Code of Iowa, Sec. 372.4)*

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

**2.04 NUMBER AND TERM OF COUNCIL.** The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

*(Code of Iowa, Sec. 376.2)*

**2.05 TERM OF MAYOR.** The Mayor is elected for a term of four (4) 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)*

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## CHAPTER 3

### MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties

3.04 Civil Citations  
3.05 Alternative Relief  
3.06 Criminal Penalties

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

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

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

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

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

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

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

## 1. Standard Civil Penalties.

A. First Offense - Not to exceed \$100.00

B. Each Repeat Offense - Not to exceed \$200.00

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

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

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

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

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

**3.04 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. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, 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 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy 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.

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

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

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

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

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## CHAPTER 5

### OPERATING PROCEDURES

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

*(Code of Iowa, Sec. 362.5[1])*

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

*(Code of Iowa, Sec. 362.5[2])*

3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.  
*(Code of Iowa, Sec. 362.5[3])*
4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.  
*(Code of Iowa, Sec. 362.5[5])*
5. Newspaper. The designation of an official newspaper.  
*(Code of Iowa, Sec. 362.5[6])*
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.  
*(Code of Iowa, Sec. 362.5[7])*
7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.  
*(Code of Iowa, Sec. 362.5[8])*
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.  
*(Code of Iowa, Sec. 362.5[9])*
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.  
*(Code of Iowa, Sec. 362.5[4])*
10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2500.00) in a fiscal year.  
*(Code of Iowa, Sec. 362.5[11])*

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

*(Code of Iowa, Sec. 362.5[12])*

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

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

**5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES OR ELECTED OFFICIALS.**

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

*(Code of Iowa, Sec. 372.15)*

2. Any City officer elected by the people may be removed from office by the City Council after a public hearing on written charges filed with the City Council of the City of Manly. A copy of the charges against the officeholder, certified as a true copy of the original by the City Clerk, along with a notice of a public hearing before the Council, shall be served upon the officeholder by the Chief of Police or sent by certified mail to the officeholder at his or her address of record. The date and time of the hearing shall be not sooner than 10, nor more than 20 days, after service or mailing of the charges. In no event shall the hearing occur later than 20 days after the service of notice without written request of the elected City official filed with the City Clerk. Grounds for removal are:

- A. Willful or habitual neglect or refusal to perform the duties of the office.
- B. Willful misconduct or maladministration in office.

- C. Corruption.
- D. Extortion.
- E. Upon conviction of a felony.
- F. Intoxication, or upon conviction of being intoxicated, or
- G. Upon conviction of violating the provisions of Chapter 56 of the Code of Iowa.

Such removal can only be made by a two-thirds vote of the entire Council or by an action in the District Court pursuant to Chapter 66 of the Code of Iowa.

*(Code of Iowa, Sec. 66.29)*

*(Ord. 2005-07 – Jul. 05 Supp.)*

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

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

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

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

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

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

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

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

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## CHAPTER 6

### CITY ELECTIONS

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

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

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

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

*(Code of Iowa, Sec. 45.3)*

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

*(Code of Iowa, Sec. 45.4)*

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

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

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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

**7.01 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, collection-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 may be established and maintained separate and distinct funds in accordance with the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Proposal Prepared. The Mayor and finance officer are responsible for preparation of the annual budget detail, for review by the Claims and Finance Committee. The Claims and Finance Committee, upon their review and deliberation, shall make recommendations to the full Council for adoption.

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 by December 1 of the current fiscal year in such form as required by the Council.

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by two individuals, a combination of any two of the following:

- A. The City Clerk/Deputy Clerk;
- B. The Mayor;
- C. The Mayor Pro Tem;
- D. Either of the two Council Members who are designated by Council resolution.

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

*(Code of Iowa, Sec. 384.22)*

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## **CHAPTER 8**

# **LOCAL SALES AND SERVICE TAX**

### **8.01 Tax Imposed**

### **8.02 Allocation of Revenue**

**8.01 TAX IMPOSED.** A tax at the rate of one percent (1%) shall be imposed in conformance with Chapter 422B of the Code of Iowa upon local sales and services in the City.

**8.02 ALLOCATION OF REVENUE.** The revenue generated from the local sales and service tax shall be allocated by the City as follows:

1. Ten percent (10%) for property tax relief;
2. Forty percent (40%) for infrastructure improvements;
3. Fifty percent (50%) for building and grounds improvements.

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## **CHAPTER 9**

### **URBAN REVITALIZATION**

**9.01 CENTRAL BUSINESS DISTRICT URBAN REVITALIZATION AREA.** In accordance with Chapter 404 of the Code of Iowa, the following described area of the City is hereby designated as the Central Business District Urban Revitalization Area.

Beginning at the intersection of the east line of Grant Street and the south line of Main Street; thence northerly along said east line to the north line of North Street; thence easterly along said north line to the east line of Blanch Street; thence northerly along said east line to the north boundary of Highland Addition, platted as an unnamed street to the City of Manly located between North Blanch Street and North Grant Street; thence easterly along the easterly extension of said north line to the northerly extension of the east line of East Street; thence southerly along said east line and extension thereof to the south line of South Street; thence westerly along said south line to the west line of Iowa Street; thence southerly along said west line and southerly extension thereof to the southwesterly right-of-way line of the Iowa Northern Railroad; thence northwesterly along said right-of-way line to the intersection with the south line of Main Street; thence westerly along said south line to the point of beginning.

The Urban Revitalization Plan for the City, dated April 1, 1992, and which is on file in the office of the Clerk, is by this reference made a part hereof, the same as if set out herein.

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## CHAPTER 10

### URBAN RENEWAL

#### EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted and provide for Urban Renewal Areas in the City and remain in full force and effect, for division of tax levied on taxable property.

ORDINANCE NO.	ADOPTED	NAME OF AREA
2002-02	June 3, 2002	Manly Urban Renewal Area
2006-01	February 15, 2006	Manly Urban Renewal Area Amendment
2006-02	February 15, 2006	Sterling Acres I Urban Renewal Area
2006-03	February 15, 2006	School Meadows Urban Renewal Area
2006-06	May 17, 2006	Sterling Acres I Urban Renewal Project Area

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## CHAPTER 15

### MAYOR

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15.04 Compensation  
15.05 Voting

**15.01 TERM OF OFFICE.** The Mayor is elected for a term of four (4) years.

*(Code of Iowa, Sec. 376.2)*

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

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

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

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

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

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

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

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

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

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs



generally, the municipal departments, and recommendations suitable for Council action.

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.
7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.
9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

**15.03 APPOINTMENTS.** The Mayor shall appoint the following officials:  
(*Code of Iowa, Sec. 372.4*)

1. Mayor Pro Tem
2. Police Chief
3. Library Board
4. Parks and Recreation Advisory Board

**15.04 COMPENSATION.** The salary of the Mayor is twelve hundred dollars (\$1200.00) per year plus twenty-five dollars (\$25.00) for each regular meeting and fifteen dollars (\$15.00) for each special meeting of the Council attended, payable monthly.

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

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

(*Code of Iowa, Sec. 372.4*)

## CHAPTER 16

### MAYOR PRO TEM

16.01 Vice President of Council  
16.02 Powers and Duties

16.03 Voting Rights  
16.04 Compensation

**16.01 VICE PRESIDENT OF COUNCIL.** The Mayor Pro Tem is vice president of the Council.

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

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

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

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

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

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

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

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## CHAPTER 17

### COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 NUMBER AND TERM OF COUNCIL.** The Council consists of five (5) Council members elected at large for overlapping terms of four (4) years.  
*(Code of Iowa, Sec. 372.4 & 376.2)*

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.100)*

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars (\$25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

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

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

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

A. An ordinance or amendment signed by the Mayor becomes effective when the ordinance or a summary of the ordinance is

published, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.4)*

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

1. **Regular Meetings.** The regular meetings of the Council are on the first working day of each month, and on the fifteenth (15th) day of each month, at seven o'clock (7:00) p.m. in the Council Chambers at City Hall. If such day falls on a legal holiday, Friday, Saturday or Sunday,

the meeting is held on the next succeeding workday, 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 written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

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

3. Quorum. A majority of all Council members is a quorum.

*(Code of Iowa, Sec. 372.13[1])*

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

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

**17.06 COMPENSATION.** The salary of each Council member is twenty-five dollars (\$25.00) for each regular meeting and fifteen dollars (\$15.00) for each special meeting of the Council attended, payable annually.

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

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## CHAPTER 18

### CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Clerk to serve for a term of one (1) year. 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.** The Clerk shall attend all regular and special Council meetings and within five (5) working days following a regular or special meeting shall submit the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim.

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before



the date of the election, hearing or other action, unless otherwise provided by law.

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

3. Maintenance. Maintain all City records and documents, or accurate reproductions, for at least five (5) years except that ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption or replacement of public bonds or obligations shall be kept for at least eleven (11) years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control

when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee established by the Council; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments which by ordinance and Code of Ordinances are required to be attested by the affixing of the seal.

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

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

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

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

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

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

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

**18.11 NOTIFY APPOINTEES.** The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their position and the time at which they shall assume the duties of their office.

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

**18.12 ELECTIONS.** The Clerk shall perform the following duties relating to elections and nominations:

1. In the event of a change in the method of nomination process used by the City, certify to the Commissioner of Elections the type of nomination process to be used by the City no later than seventy-seven (77) days before the date of the regular City election.

*(Code of Iowa, Sec. 376.6)*

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

*(Code of Iowa, Sec. 376.4)*

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

*(Code of Iowa, Sec. 376.4)*

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

*(Code of Iowa, Sec. 376.4)*

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o'clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.

*(Code of Iowa, Sec. 376.4)*

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

## CHAPTER 19

### CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer

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

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

**19.03 DUTIES OF TREASURER.** The duties of the Treasurer are as follows:

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

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

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## CHAPTER 20

### CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 21

### LIBRARY BOARD OF TRUSTEES

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

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

**21.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of four (4) resident members and one nonresident member. 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.

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

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) 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 (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.



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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of

all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City on behalf of the Library.

*(Code of Iowa, Ch. 661)*

12. Record of Proceedings. To keep a record of its proceedings.

13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) percent in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be

submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.
2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.
3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.
4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

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## CHAPTER 22

### PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission  
22.02 Term of Office  
22.03 Vacancies

22.04 Compensation  
22.05 Powers and Duties

**22.01 PLANNING AND ZONING COMMISSION.** There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, a majority of whom shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

**22.04 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)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

7. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City

all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the City for City planning and zoning purposes.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

9. Annual Report. The Commission shall each year, by July 30, make a report to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

*(Code of Iowa, Sec. 392.1)*



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## CHAPTER 23

### PARKS AND RECREATION ADVISORY BOARD

23.01 Advisory Board Created  
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23.03 Compensation  
23.04 Budget Certified  
23.05 Records and Reports  
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23.08 Poles and Wires  
23.09 Acquisition of Land  
23.10 Sale or Lease of Property  
23.11 Limited Leases  
23.12 Rules and Regulations  
23.13 Penalties

**23.01 ADVISORY BOARD CREATED.** A Parks and Recreation Advisory Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs for the leisure time activities of the City's residents of all ages.

**23.02 ORGANIZATION.** The Board shall consist of three (3) members, a majority of whom shall be residents of the City, appointed by the Mayor with the approval of the Council, for overlapping terms of three (3) years. The Board shall choose its Chairperson and Vice Chairperson every two (2) years. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

**23.03 COMPENSATION.** Members shall serve without compensation, but may receive their actual expenses as approved by the Council.

**23.04 BUDGET CERTIFIED.** The Board shall submit each year to the Council a proposed budget for general park purposes for the ensuing fiscal year.

**23.05 RECORDS AND REPORTS.** The Board shall keep a record of all its transactions and proceedings and submit a detailed monthly financial disclosure to the Council, on or by no later than the first Monday of the following month, of the amounts of money expended and the purposes for which used. The Council has the right of claim approval on all expenditures for which the Board is not specifically empowered to make.

**23.06 ANNUAL REPORT.** The Board is required to prepare a report which details its activities of the previous year prior to January 1. This report shall include a detailed financial disclosure of the year's activities and also shall document the condition of the parks, improvements to the parks, condition of

equipment and other activities which were undertaken by the Board or its employees.

**23.07 JURISDICTION AND AUTHORITY.** The Board has the role and responsibility as an advisory body to the Council concerning all aspects of the parks and pleasure grounds acquired by it or of any other ground owned by the City and set apart for like purposes within or outside the City. All ordinances of the City shall be in full force and effect in and over the territory occupied by such parks.

**23.08 POLES AND WIRES.** The Board may advise the Council regarding the erection of poles or the stretching of wire for electric light, street railway, or other corporations or persons in such parks or in or along streets or highways or over public places laid out or controlled by it.

**23.09 ACQUISITION OF LAND.** The Board may advise the Council regarding the acquisition of real estate within or outside of the City for park purposes by donation, lease, purchase, or condemnation, take the title to real estate in the name of the City in trust for the public and hold it exempt from taxation.

**23.10 SALE OR LEASE OF PROPERTY.** The Board may advise the Council concerning the sale, exchange, or lease any real estate acquired by it or the City which in its discretion is unfit, not desirable, unnecessary, or not required for park purposes.

**23.11 LIMITED LEASES.** The Board may advise the Council concerning the leasing, under reasonable rates and requirements, of a particular park or portion thereof, as follows:

1. For a period not in excess of ten (10) days to charitable, fraternal and patriotic organizations for the conduct of celebrations, anniversaries and entertainment.
2. For such time or times, not to exceed six (6) consecutive months, for the purpose of permitting the playing of professional baseball or other professional games.

**23.12 RULES AND REGULATIONS.** The Board shall have the authority to adopt rules and regulations for the use of any City park or other facilities under its control, subject to the approval of the Council. Such rules shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public.

**23.13 PENALTIES.** Any person who violates a Board rule or regulation which has been approved by the Council and adopted by ordinance may be subjected to the penalties provided for in the ordinance adopting the rule or regulation or as provided in this Code of Ordinances.

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# **POLICE, FIRE AND EMERGENCIES**

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## CHAPTER 30

### POLICE DEPARTMENT

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30.07 Police Chief: Duties  
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**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 following employment. Peace officers shall also meet the minimum in-service training as required by law.

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

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

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

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

*(Code of Iowa, Sec. 372.4)*

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

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

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

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

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

*(Code of Iowa, Sec. 804.17)*



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

*(Code of Iowa, Sec. 804.18)*

**30.11 CONTRACT LAW ENFORCEMENT.** In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

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

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## CHAPTER 35

### FIRE DEPARTMENT

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35.15 Emergency Rescue Service  
35.16 Firefighters' Association  
35.17 City Expenses

**35.01 ESTABLISHMENT AND PURPOSE.** A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls within the fire and EMS service area or by request for mutual aid.

*(Code of Iowa, Sec. 364.16)*

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

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

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

**35.04 TRAINING.** All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

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

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

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

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

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

1. **Enforce Laws.** Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.

2. **Technical Assistance.** Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

8. **Notification.** Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has

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

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

*(Code of Iowa, Sec. 100.4)*

12. Records. Cause to be kept records of the fire department personnel, fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 100.41)*

**35.15 EMERGENCY RESCUE SERVICE.** The department is authorized to provide emergency rescue services and the accidental injury and liability insurance provided for herein shall include such operation.

**35.16 FIREFIGHTERS' ASSOCIATION.** The Manly Volunteer Firefighters' Association, Inc. has been established and is hereby recognized by the City, with such duties of said association including the collection and disbursement of fire department funds for the operation of the department. The purpose and objectives of the corporation are to assist the fire department in the execution and performance of its responsibilities to the citizens of the City and the townships served by the department.

1. **Membership.** The membership of the corporation shall consist of the Fire Chief, or representative of the Manly Fire Department, one Council Member and one member from each township serviced. Said townships are Lincoln, Danville, Union and Lime Creek.
2. **Governing Board.** The governing board of the corporation shall consist of the Fire Chief, representative of the Council, and one representative from those townships serviced. The duties of the Board will be to receive and disburse funds on the majority vote of the Board members.
3. **Purchases.** The corporation may purchase property for the fire department for the use of the department in meeting its goals and objectives except that any purchase with the value of ten thousand dollars (\$10,000.00) or more shall be submitted to the Council for consideration and approval prior to the corporation's action.
4. **Ownership of Property.** All property either controlled by or purchased for the fire department will immediately become the property of the City.
5. **Annual Report.** The corporation shall cause to have an annual audit conducted of its practices after the end of the municipal fiscal year end, but by no later than August 1 of each year, which shall be transmitted to the Council, and which shall serve as part of the annual report of the corporation. The report shall contain a statement of the condition of the corporation with receivables itemized and disbursements itemized together with such further information required by the Council or by law.

**35.17 CITY EXPENSES.** The City shall pay for the following:

1. **Insurance.** Both for property, vehicles and personnel.
2. **Maintenance and Operating Cost.** Such cost for all vehicles and equipment which are the property of the fire department.
3. **Utilities.** All utilities required for the operation of the department, including telephone, gas, water, electricity, sewer and any other like items.
4. **Reimbursement of Firefighters' Expenses.** Those costs which are incurred by a firefighter which are incidental to the performance of duties, as approved by the Council.
5. **Other Expenses.** All other expenses which are required by this Code of Ordinances, State law or as approved by the Council.

All such expenditures which are funded by the City shall require the prior approval of purchase order by the Mayor or Mayor Pro Tem if such single expenditure exceeds 5% of current physical budget and such other practices which are required by the Council.



## CHAPTER 36

### HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose  
36.02 Definitions  
36.03 Cleanup Required  
36.04 Emergency Response

36.05 Liability for Cleanup Costs  
36.06 Notifications  
36.07 Police Authority  
36.08 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. "Response" means action taken to mitigate a hazardous condition including, but not limited to, identification, assessment, evacuation, containment, control or cessation. Said actions may be taken by fire services, emergency management, law enforcement, emergency medical, local or regional hazardous materials teams, or others directly involved.

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

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

**36.03 CLEANUP REQUIRED.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

**36.04 EMERGENCY RESPONSE.** Whenever a hazardous condition creates an immediate danger to the public health, safety and welfare and it is necessary to take immediate action to correct the condition in order to protect

the public health, safety and welfare, the City may make an emergency response to limit the immediate danger, without prior notice to the responsible person, and bill the responsible person for all costs of the emergency response.

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

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition, including an emergency response.
2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

**36.06 NOTIFICATIONS.**

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

**36.07 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.

**36.08 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 Unlawful Assembly  
40.05 Failure to Disperse  
40.06 Indecent Exposure

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

A. Communicates with another by telephone, telegraph, electronic communications (i.e., e-mail or radios) or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

*(Code of Iowa, Sec. 708.7)*

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

*(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, residence, or business establishment or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

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

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

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

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

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

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

*(Code of Iowa, Sec. 723.4 [4])*

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

*(Code of Iowa, Sec. 723.4 [5])*

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

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

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

*(Code of Iowa, Sec. 723.2)*

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

*(Code of Iowa, Sec. 723.3)*

**40.06 INDECENT EXPOSURE.** It is unlawful for any woman to expose her breasts, or for any person to expose his or her buttocks or genitals in a restaurant, bar, tavern, lounge, any public building or grounds frequented for business or community purposes, or on any public road, street, alley, highway or thoroughfare, or any other public right-of-way or public place, or on any



private property or premises where the public could see or view a woman's breasts or any person's buttocks or genitals.

## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

41.06 Antenna and Radio Wires  
41.07 Barbed Wire and Electric Fences  
41.08 Discharging Weapons  
41.09 Throwing and Shooting  
41.10 Urinating and Defecating  
41.11 Fireworks Permit

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.08 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB guns or other firearms of any kind within the City limits except by written consent of the Council.

2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

**41.10 URINATING AND DEFECATING.** It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor,

hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

**41.11 FIREWORKS PERMIT.** The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

1. Personal Injury: - \$250,000.00 per person.
2. Property Damage: - \$50,000.00.
3. Total Exposure: - \$1,000,000.00.

*(Code of Iowa, Sec. 727.2)*

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## CHAPTER 42

### PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

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

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

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

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

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

*(Code of Iowa, Sec. 714.8)*

**42.06 THEFT.** It is unlawful for any person to commit theft. A person commits theft when the person does any of the following:

*(Code of Iowa, Sec. 714.1)*

1. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.
2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial

of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.

3. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception.

4. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer.

5. Takes, destroys, conceals or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property or service in exchange therefor, if the person knows that such check, share draft, draft or written order will not be paid when presented.

7. Obtains gas, electricity or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

8. Any act that is declared to be theft by any provision of the Code of Iowa.

The theft of property not exceeding one hundred dollars (\$100.00) in value is a simple misdemeanor.



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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Container on Streets and Highways

45.02 Public Consumption or Intoxication

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

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

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

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, wine or beer from any licensee or permittee.

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

3. The above restrictions shall not apply to wine consumed as part of bona fide religious ceremonies.

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

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

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

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

C. "Peace Officer" means the same as defined in Section 801.4 of the Code of Iowa.

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

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

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

*(Code of Iowa, Sec. 123.46)*

**45.03 OPEN CONTAINER ON STREETS AND HIGHWAYS.** *(See Section 62.08 of this Code of Ordinances.)*

## CHAPTER 46

### DRUG PARAPHERNALIA

46.01 Purpose  
46.02 Controlled Substance Defined  
46.03 Drug Paraphernalia Defined  
46.04 Determining Factors

46.05 Possession of Drug Paraphernalia  
46.06 Manufacture, Delivery or Offering For Sale  
46.07 Advertisement

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

**46.02 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.

**46.03 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.

**46.04 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 which explain or depict its use.
10. **Advertising.** National and local advertising concerning its use.

## DRUG PARAPHERNALIA

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.

**46.05 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.

**46.06 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.

**46.07 ADVERTISEMENT.** It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

## CHAPTER 47

### MINORS

47.01 Curfew  
47.02 Cigarettes and Tobacco

47.03 Contributing to Delinquency  
47.04 Minors in Billiard Rooms

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

1. Definition. The term "minor" means in this section, any person below the age of eighteen (18) years.

2. Time Limits. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places which are public domain, property or right-of-way, or to be in places of business and amusement in the City between the hours of ten-thirty o'clock (10:30) p.m. and six o'clock (6:00) a.m. of the following day on any day.

3. Exceptions. The restriction provided by subsection 47.01(2) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, church, municipal or school function is being held.

4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 47.01(2), except as otherwise provided in subsection 47.01(3).

*(Code of Iowa, Sec. 613.16)*

5. Responsibility of Business Establishments. It is unlawful for any persons operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by subsection 47.01(2) except as otherwise provided in subsection 47.01(3).



6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 47.01(2) and (3). Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

**47.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes.

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

**47.03 CONTRIBUTING TO DELINQUENCY.** It is unlawful:

1. To encourage any child under eighteen (18) years of age to commit any act of delinquency defined in Chapter 232 of the Code of Iowa;
2. To knowingly send, cause to be sent or induce to go, any child under the age of eighteen (18) to any of the following:
  - A. A brothel or other premises used for the purposes of prostitution, with the intent that the child engage the services of a prostitute;
  - B. An unlicensed premises where alcoholic liquor, wine or beer is unlawfully sold or kept for sale;
  - C. Any premises the use of which constitutes a violation of Sections 725.5, 725.10 or 725.11 of the Code of Iowa;
3. To knowingly encourage, contribute or in any manner cause such child to violate any law of the State or any ordinance of the City;
4. To knowingly permit, encourage or cause such child to be guilty of any vicious or immoral conduct;
5. For a parent willfully to fail to support said parent's child under eighteen (18) years of age whom the parent has a legal obligation to support.

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

**47.04 MINORS IN BILLIARD ROOMS.** It is unlawful for any person who keeps a billiard hall where beer, liquor or wine is sold, or the agent, clerk or employee of any such person, or any person having charge or control of any such hall, to permit any minor to remain in such hall or to take part in any of the games known as billiards or pool or derivative thereof.

## CHAPTER 48

### PARK REGULATIONS

48.01 Purpose  
48.02 Use of Drives Required  
48.03 Fires  
48.04 Littering

48.05 Parks Closed  
48.06 Camping  
48.07 Parking

**48.01 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)*

**48.02 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.

**48.03 FIRES.** No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

**48.04 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.

**48.05 PARKS CLOSED.** No person, except those camping in designated areas, shall enter or remain within any park between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. unless a permit has been issued by the Council for the use of the park during such hours.

**48.06 CAMPING.** No person shall camp in any portion of a park without permission from the Mayor, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

**48.07 PARKING.** All vehicles shall be parked in designated parking areas, and no vehicle shall be left unattended on any park drive, road or street, except in the case of an emergency.

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## CHAPTER 50

### NUISANCE ABATEMENT PROCEDURE

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50.12 Installment Payment of Cost of Abatement  
50.13 Failure to Abate

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

*(Code of Iowa, Sec. 657.1)*

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

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

*(Code of Iowa, Sec. 657.2[1])*

2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.

*(Code of Iowa, Sec. 657.2[2])*

3. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

*(Code of Iowa, Sec. 657.2[4])*

4. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

*(Code of Iowa, Sec. 657.2[5])*

5. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct

and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. (See also Section 62.09)

*(Code of Iowa, Sec. 657.2[7])*

6. Cottonwood Trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees. (See also Chapter 151)

*(Code of Iowa, Sec. 657.2[8])*

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. (See also Chapter 51)

*(Code of Iowa, Sec. 657.2[10])*

8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

*(Code of Iowa, Sec. 657.2[11])*

9. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

*(Code of Iowa, 657.2[12])*

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

*(Code of Iowa, Sec. 657.2[13])*

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

*(Code of Iowa, Sec. 657.2[6])*

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

1. Junk and Junk Vehicles (See Chapter 51)
2. Dangerous Buildings (See Chapter 145)
3. Storage and Disposal of Solid Waste (See Chapter 105)

#### 4. Trees (See Chapter 151)

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

*(Code of Iowa, Sec. 657.3)*

**50.05 NUISANCE ABATEMENT.** Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner or person causing the nuisance a written notice to abate the nuisance within a reasonable time after notice.

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

**50.06 NOTICE TO ABATE: CONTENTS.** The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

**50.07 METHOD OF SERVICE.** The notice may be sent by certified mail to the property owner or by personal service by a peace officer or other authorized City personnel. If service cannot be made by either one of these methods, service can be made by posting the notice in a conspicuous place on the property or building in question and by publication.

*(Code of Iowa, Sec. 657A.2)*

**50.08 REQUEST FOR HEARING.** Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time 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.

**50.09 ABATEMENT IN EMERGENCY.** If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner or person causing the nuisance under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

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

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

**50.11 COLLECTION OF COSTS.** The Clerk shall send a statement of the total expense incurred by certified mail to the property owner or the person causing the nuisance who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes; and the City may seek a civil judgment against the owner or person causing the nuisance in accordance with State law.

*(Code of Iowa, Sec. 364.12[3h & 4])*

**50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT.** If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

*(Code of Iowa, Sec. 364.13)*

**50.13 FAILURE TO ABATE.** Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.



**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.

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## CHAPTER 51

# JUNK AND JUNK VEHICLES

51.01 Purpose

51.02 Definitions

51.03 Junk and Junk Vehicles Prohibited

51.04 Junk and Junk Vehicles a Nuisance

51.05 Exceptions

51.06 Duty of Owner to Remove or Repair

51.07 Abatement

51.08 Parking and Storage

**51.01 PURPOSE.** The purpose of this chapter is to protect the health, welfare and safety of the citizens by preventing the keeping and/or storage of junk or the keeping and/or storage of inoperable or unlicensed junk vehicles upon private or public property.

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

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

2. "Junk or obsolete vehicle" means any vehicle or truck, or part of the same, located within the City, which has any of the following characteristics:

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

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

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

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

E. Inoperable. Any motor vehicle not capable of being driven from the place of its location under its own power without the addition of parts or repairs thereon or any vehicle not equipped with four (4) inflated tires, in the case of automobiles or trucks, or two (2) inflated tires, in the case of a motorcycle.

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

G. No Current Registration. Any vehicle which does not display a valid and current registration or license. However, the mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

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

**51.03 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.

**51.04 JUNK AND JUNK VEHICLES A NUISANCE.** It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.05, 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 the junk or junk vehicle shall be prima facie liable for said violation. In the absence of any known or ascertainable owner of said junk or junk vehicle, the owner of the property upon which the junk or junk vehicle is stored shall be prima facie liable for said violation.

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

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

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

**51.06 DUTY OF OWNER TO REMOVE OR REPAIR.** The owner of the junk motor vehicle which violates the provisions of this chapter, or in the absence of any known or ascertainable owner, the owner of the property upon which it is stored, must, within ten (10) days after receipt of written notice from the Police Department or any other City officer, or official or employee having authority or responsibility for enforcement of the provisions of this Code of Ordinances, remove the motor vehicle to an auto salvage yard or junk yard or remove the defects which caused said motor vehicle to violate the provisions of this chapter.

**51.07 ABATEMENT.** If the vehicle is not removed or repaired in accordance with the terms of Section 51.06, the City shall initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

**51.08 PARKING AND STORAGE.** Unless excepted by Section 51.05, no person or entity shall park, place, keep or store or permit the parking, placing, keeping or storage of a junk or obsolete vehicle or a stock car or racing car or vehicular component parts or miscellaneous junk on any public or private property within the corporate limits of the City unless it is within a completely enclosed building or enclosed trailer.

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions

55.02 Animal Neglect

55.03 Livestock Neglect

55.04 Abandonment of Cats and Dogs

55.05 Livestock

55.06 At Large Prohibited

55.07 Damage or Interference

55.08 Annoyance or Disturbance

55.09 Rabies Vaccination

55.10 Owner's Duty

55.11 Confinement

55.12 At Large: Impoundment

55.13 Disposition of Animals

55.14 Impounding Fees and Costs

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

1. "Animal" means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
2. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.  
*(Code of Iowa, Sec. 717.1)*
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

*(Code of Iowa, Sec. 717.2)*

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

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

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

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

**55.07 DAMAGE OR INTERFERENCE.** It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises. Dogs being walked on public property shall be restrained with a leash. Dogs tethered, chained or restrained on private property shall be so restrained that the animal is kept at least six feet (6') from any public way, sidewalk, alley or other public property.

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

**55.09 RABIES VACCINATION.** Every owner of a cat or dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a cat or dog in said person's possession, six months of age or over, which has not been vaccinated against rabies.

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

*(Code of Iowa, Sec. 351.38)*



**55.11 CONFINEMENT.** When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

*(Code of Iowa, Sec. 351.39)*

**55.12 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.

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

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

**55.14 IMPOUNDING FEES AND COSTS.** Impounding fees are ten dollars (\$10.00) for the first occurrence, twenty-five dollars (\$25.00) for the second occurrence within any consecutive twelve-month period, and fifty dollars (\$50.00) for the third and each subsequent occurrence within any consecutive twelve-month period, plus the costs of impoundment as established and charged by the impoundment facility.

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## **CHAPTER 56**

### **CAT AND DOG LICENSE REQUIRED**

**56.01 Annual License**

**56.02 License Requirements**

**56.03 License Fee**

**56.04 Records to be Maintained**

**56.05 Issuance of License**

**56.06 Issuance of Tags**

**56.01 ANNUAL LICENSE.** Every owner of a cat or dog over the age of six (6) months shall procure an animal license from the City Clerk or a designated representative agreeing to sell tags on behalf of the City as required in this chapter. Exceptions to this requirement include a thirty-day residency grace period and animals under the age of six (6) months on the required licensing date.

**56.02 LICENSE REQUIREMENTS.** Owners of animals required to be licensed shall acquire such license beginning January 1 of each year. License fees shall become delinquent February 1 of each year and a delinquent license fee shall be imposed except in cases where by reason of residence or age the animal was not subject to licensing as specified in this chapter. Owners of an animal requiring a license shall register the animal within 30 days of the animal meeting the residency and age requirements.

**56.03 LICENSE FEE.** The annual license fee is three dollars (\$3.00) for each neutered cat or dog and five dollars (\$5.00) for each unneutered cat or dog. A delinquent penalty of one dollar (\$1.00) per month shall be imposed on owners of animals which are required to have a license but fail to have the animal properly licensed by the required date.

**56.04 RECORDS TO BE MAINTAINED.** The Clerk or designee shall maintain a public record of each license issued containing the name of the animal's owner, address and description of the animal.

**56.05 ISSUANCE OF LICENSE.** No license shall be issued by the Clerk or designee until the owner of the animal has provided proof of rabies immunization and has paid the appropriate licensing fee. All licensed animals shall at all times bear the City license tag and vaccination tag.

**56.06 ISSUANCE OF TAGS.** A numbered tag with the year for which it is issued shall be delivered to the owner by the Clerk or designee, along with the license upon which the number of the tag has been placed. The license tag shall be securely fastened to a collar or harness which shall be worn by the animal for

which the licensee shall have been issued. Any animal found running at large without the license tag attached to its collar or harness shall be deemed unlicensed. It is a violation of this section for any owner to own or possess a dog or cat within the City without obtaining a license therefore in accordance with this chapter.

## **CHAPTER 57**

# **DANGEROUS AND VICIOUS ANIMALS**

### **57.01 Definitions**

### **57.02 Keeping of Dangerous Animals Prohibited**

### **57.03 Seizure, Impoundment and Disposition of Dangerous Animals**

### **57.04 Keeping of Vicious Animals Prohibited**

### **57.05 Seizure, Impoundment and Disposition of Vicious Animals**

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

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

- A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- B. Wolves, coyotes and foxes;
- C. Badgers, wolverines, weasels, skunk and mink;
- D. Raccoons;
- E. Bears;
- F. Monkeys and chimpanzees;
- G. Bats;
- H. Alligators and crocodiles;
- I. Scorpions;
- J. Snakes that are venomous, or constrictors;
- K. Lizards that are venomous.

2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or other animal and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal (a) has bitten or clawed a person or other animal on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person or other animal; or (c)

could not be controlled or restrained by the owner at the time of the attack to prevent the attack from occurring.

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

1. Zoo or Institution. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society or museum where they are kept as live specimens for the public to view or for the purpose of instruction, research or study.
2. Circus or Carnival. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
3. Veterinary Hospital. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. Wildlife Rescue Organization. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the State Department of Natural Resources.
5. Department of Natural Resources. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

**57.03 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.** Dangerous animals may be seized, impounded and disposed of pursuant to the following:

1. Found at Large. In the event that a dangerous 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 any person or property, such animal may, in the discretion of the Police Chief or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt to confine or capture a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Complaint. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises within the City, the Police Chief 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 animal in the City, the Police Chief or peace officer shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed under Section 57.02 of this chapter to possess dangerous animals, or destroy the animal, within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case, the Police Chief 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. Appeal to Council. The order to remove a dangerous animal issued by the Police Chief 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 (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Police Chief or peace officer.

4. Notice of Appeal. 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 (7) days of the receipt of notice of appeal. The hearing may be continued for good cause, as determined by the Council. After such hearing, the Council may affirm or reverse the order of the Police Chief or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. Council Action. If the Council affirms the action of the Police Chief or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City, permanently place such animal with an organization or group allowed under Section 57.02 to possess dangerous animals 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 Police Chief or peace officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Police Chief or peace officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Police Chief or peace officer or Council was issued has not petitioned the District Court for a review of said order, the Police Chief or peace officer shall cause the animal to be disposed of by sale, permanent placement of such animal with an organization or group allowed under Section 57.02 of this chapter to possess dangerous animals or destruction of such animal in a humane manner. Failure to comply with an order of the Police Chief or peace officer issued pursuant hereto and not appealed, or of the City Council after appeal, constitutes a simple misdemeanor.

**57.04 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. Governmental Agency. Animals under the control of a law enforcement or military agency.
2. Guard Dogs. 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 vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be so designated by a prominently posted sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Police Chief or peace officer that a guard dog is on duty at said premises.

**57.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.** Vicious animals may be seized, impounded and disposed of pursuant to the following:

1. Proceedings Initiated. The Police Chief or peace officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, as defined herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Mayor. The person owning, keeping, sheltering or harboring the animal in question shall be given written notice of the time



and place of said hearing not less than seventy-two (72) hours before the occurrence of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also state that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service of notice.

2. Hearing and Order. If, after hearing, the Mayor determines that an animal is vicious, the Mayor shall order the person owning, sheltering or harboring or keeping the animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the Mayor is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Mayor was issued has not appealed such order to the Council, the Mayor shall cause the animal to be destroyed in a humane manner.

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

4. Hearing and Determination. 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 (7) days of the receipt of notice of appeal. The hearing may be continued for good cause, as determined by the Council. After such hearing, the Council may affirm or reverse the order of the Mayor. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. Order. If the Council affirms the action of the Mayor, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such vicious animal shall remove such animal from the City or cause it to be destroyed in a humane manner. The decision

and order shall immediately be served upon the person against whom rendered in the same manner as the order to remove or destroy. If the original order of the Mayor is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Police Chief or peace officer is authorized to seize and impound such vicious animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Mayor or Council was issued has not petitioned the District Court for a review of said order, the Mayor shall cause the animal to be destroyed in a humane manner.

6. Failure to Comply with Order. Failure to comply with an order of the Mayor issued pursuant hereto and not appealed, or of the Council after appeal, shall constitute a simple misdemeanor.

7. At Large Animals. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot be safely be apprehended, in which case the Police Chief or peace officer may immediately destroy such animal.

8. Impoundment Costs. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the City.

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## **TRAFFIC AND VEHICLES**

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## CHAPTER 60

### ADMINISTRATION OF TRAFFIC CODE

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

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

**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "City of Manly Traffic Code."

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

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
11. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

*(Code of Iowa, Sec. 321.273 & 321.274)*

**60.06 PEACE OFFICER'S AUTHORITY.** A peace officer is authorized to stop a vehicle to require exhibition of the driver's motor vehicle license, 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 insurance card issued for the vehicle if the vehicle is a motor vehicle registered in this state.

*(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] & 321.255)*

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

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

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

*(Code of Iowa, Sec. 321.255)*

**61.05 COMPLIANCE.** No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.

*(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 Funeral Processions**

**62.07 Tampering with Vehicle**  
**62.08 Open Container of Alcoholic Beverage, Wine  
or Beer on Streets and Highways**  
**62.09 Obstructing View at Intersections**  
**62.10 Reckless Driving**  
**62.11 Careless Driving**

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

1. Section 321.20B — Proof of security against liability.
2. Section 321.32 — Registration card, carried and exhibited.
3. Section 321.37 — Display of plates.
4. Section 321.38 — Plates, method of attaching, imitations prohibited.
5. Section 321.79 — Intent to injure.
6. Section 321.98 — Operation without registration.
7. Section 321.174 — Operators licensed.
8. Section 321.174A — Operation of motor vehicles with expired license.
9. Section 321.193 — Restricted licenses.
10. Section 321.216 — Unlawful use of license and nonoperator's identification card.
11. Section 321.216B — Use of motor vehicle license or nonoperator's identification card by underage person to obtain alcohol.
12. Section 321.219 — Permitting unauthorized minor to drive.
13. Section 321.220 — Permitting unauthorized person to drive.
14. Section 321.221 — Employing unlicensed chauffeur.
15. Section 321.222 — Renting motor vehicle to another.

16. Section 321.223 — License inspected.
17. Section 321.224 — Record kept.
18. Section 321.232 — Radar jamming devices; penalty.
19. Section 321.234A — All-terrain vehicles.
20. Section 321.247 — Golf cart operation on City streets.
21. Section 321.259 — Unauthorized signs, signals or markings.
22. Section 321.262 — Damage to vehicle.
23. Section 321.263 — Information and aid.
24. Section 321.264 — Striking unattended vehicle.
25. Section 321.265 — Striking fixtures upon a highway.
26. Section 321.275 — Operation of motorcycles and motorized bicycles.
27. Section 321.278 — Drag racing prohibited.
28. Section 321.288 — Control of vehicle; reduced speed.
29. Section 321.295 — Limitation on bridge or elevated structures.
30. Section 321.297 — Driving on right-hand side of roadways; exceptions.
31. Section 321.298 — Meeting and turning to right.
32. Section 321.299 — Overtaking a vehicle.
33. Section 321.302 — Overtaking on the right.
34. Section 321.303 — Limitations on overtaking on the left.
35. Section 321.304 — Prohibited passing.
36. Section 321.307 — Following too closely.
37. Section 321.308 — Motor trucks and towed vehicles; distance requirements.
38. Section 321.309 — Towing; convoys; drawbars.
39. Section 321.310 — Towing four-wheel trailers.
40. Section 321.312 — Turning on curve or crest of grade.
41. Section 321.313 — Starting parked vehicle.
42. Section 321.314 — When signal required.
43. Section 321.315 — Signal continuous.

44. Section 321.316 — Stopping.
45. Section 321.317 — Signals by hand and arm or signal device.
46. Section 321.319 — Entering intersections from different highways.
47. Section 321.320 — Left turns; yielding.
48. Section 321.321 — Entering through highways.
49. Section 321.322 — Vehicles entering stop or yield intersection.
50. Section 321.323 — Moving vehicle backward on highway.
51. Section 321.324 — Operation on approach of emergency vehicles.
52. Section 321.329 — Duty of driver — pedestrians crossing or working on highways.
53. Section 321.330 — Use of crosswalks.
54. Section 321.332 — White canes restricted to blind persons.
55. Section 321.333 — Duty of drivers.
56. Section 321.340 — Driving through safety zone.
57. Section 321.341 — Obedience to signal of train.
58. Section 321.342 — Stop at certain railroad crossings; posting warning.
59. Section 321.343 — Certain vehicles must stop.
60. Section 321.344 — Heavy equipment at crossing.
61. Section 321.354 — Stopping on traveled way.
62. Section 321.359 — Moving other vehicle.
63. Section 321.362 — Unattended motor vehicle.
64. Section 321.363 — Obstruction to driver's view.
65. Section 321.364 — Preventing contamination of food by hazardous material.
66. Section 321.365 — Coasting prohibited.
67. Section 321.367 — Following fire apparatus.
68. Section 321.368 — Crossing fire hose.
69. Section 321.369 — Putting debris on highway.
70. Section 321.370 — Removing injurious material.

71. Section 321.371 — Clearing up wrecks.
72. Section 321.372 — School buses.
73. Section 321.381 — Movement of unsafe or improperly equipped vehicles.
74. Section 321.382 — Upgrade pulls; minimum speed.
75. Section 321.383 — Exceptions; slow vehicles identified.
76. Section 321.384 — When lighted lamps required.
77. Section 321.385 — Head lamps on motor vehicles.
78. Section 321.386 — Head lamps on motorcycles and motorized bicycles.
79. Section 321.387 — Rear lamps.
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81. Section 321.389 — Reflector requirement.
82. Section 321.390 — Reflector requirements.
83. Section 321.392 — Clearance and identification lights.
84. Section 321.393 — Color and mounting.
85. Section 321.394 — Lamp or flag on projecting load.
86. Section 321.395 — Lamps on parked vehicles.
87. Section 321.398 — Lamps on other vehicles and equipment.
88. Section 321.402 — Spot lamps.
89. Section 321.403 — Auxiliary driving lamps.
90. Section 321.404 — Signal lamps and signal devices.
91. Section 321.405 — Self-illumination.
92. Section 321.406 — Cowl lamps.
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94. Section 321.409 — Mandatory lighting equipment.
95. Section 321.415 — Required usage of lighting devices.
96. Section 321.417 — Single-beam road-lighting equipment.
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98. Section 321.419 — Number of driving lamps required or permitted.

99. Section 321.420 — Number of lamps lighted.
100. Section 321.421 — Special restrictions on lamps.
101. Section 321.422 — Red light in front.
102. Section 321.423 — Flashing lights.
103. Section 321.430 — Brake, hitch and control requirements.
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105. Section 321.432 — Horns and warning devices.
106. Section 321.433 — Sirens and bells prohibited.
107. Section 321.434 — Bicycle sirens or whistles.
108. Section 321.436 — Mufflers, prevention of noise.
109. Section 321.437 — Mirrors.
110. Section 321.438 — Windshields and windows.
111. Section 321.439 — Windshield wipers.
112. Section 321.440 — Restrictions as to tire equipment.
113. Section 321.441 — Metal tires prohibited.
114. Section 321.442 — Projections on wheels.
115. Section 321.444 — Safety glass.
116. Section 321.445 — Safety belts and safety harnesses — use required.
117. Section 321.446 — Child restraint devices.
118. Section 321.449 — Motor carrier safety regulations.
119. Section 321.450 — Hazardous materials transportation.
120. Section 321.454 — Width of vehicles.
121. Section 321.455 — Projecting loads on passenger vehicles.
122. Section 321.456 — Height of vehicles; permits.
123. Section 321.457 — Maximum length.
124. Section 321.458 — Loading beyond front.
125. Section 321.460 — Spilling loads on highways.
126. Section 321.461 — Trailers and towed vehicles.
127. Section 321.462 — Drawbars and safety chains.

- 128. Section 321.463 — Maximum gross weight.
- 129. Section 321.465 — Weighing vehicles and removal of excess.
- 130. 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 shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, in-line skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

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

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

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

**62.08 OPEN CONTAINER OF ALCOHOLIC BEVERAGE, WINE OR BEER ON STREETS AND HIGHWAYS.** A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage, wine or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion.

*(Code of Iowa, Sec. 321.284)*

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

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

*(Code of Iowa, Sec. 321.277)*

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

*(Code of Iowa, 321.277A)*

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



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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 Restrictions

#### 63.05 Minimum Speed

#### 63.06 Emergency Vehicles

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

*(Code of Iowa, Sec. 321.285)*

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

1. Business District — Twenty (20) miles per hour.  
*(Code of Iowa, Sec. 321.285 [1])*
2. Residence or School District — Twenty-five (25) miles per hour.  
*(Code of Iowa, Sec. 321.285 [2])*
3. Suburban District — Forty-five (45) miles per hour.  
*(Code of Iowa, Sec. 321.285 [4])*

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

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

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

reasonable and safe at such location. The following special speed zones have been established:

*(Code of Iowa, Sec. 321.290)*

1. Special 10 MPH Speed Zones. A speed in excess of ten (10) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On any alley in the City.

**63.05 MINIMUM SPEED.** No person shall 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)*

**63.06 EMERGENCY VEHICLES.** The speed limitations set forth in this chapter do not apply to authorized emergency vehicles when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public and the drivers thereof use an audible signaling device or a visual signaling device. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.

*(Code of Iowa, Sec. 321.231)*

## CHAPTER 64

### TURNING REGULATIONS

#### 64.01 Authority to Mark

#### 64.02 U-turns

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

*(Code of Iowa, Sec. 321.311)*

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

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

— NONE —

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

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

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

*(Code of Iowa, Sec. 321.345)*

1. Highway 65, from Highway 9 to the north corporate limits;
2. Highway 9, from Highway 65 to the east 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. Main Street. Vehicles traveling west on Main Street shall stop at Broadway Street;
2. Main Street. Vehicles traveling on Main Street shall stop at Iowa Street;
3. Walnut Street. Vehicles traveling on Walnut Street shall stop at Iowa Street;
4. Harris Place. Vehicles traveling on Harris Place shall stop at Iowa Street;
5. Walnut Street. Vehicles traveling on Walnut Street shall stop at Broadway Street;
6. North Street. Vehicles traveling on North Street shall stop at Broadway Street;
7. North Street. Vehicles traveling west on North Street shall stop at Grant Street;
8. Spring Street. Vehicles traveling on Spring Street shall stop at Broadway Street and Grant Street;

9. North Street. Vehicles traveling east on North Street shall stop at Grant Street;
10. Bosworth Street. Vehicles traveling east on Bosworth Street shall stop at Grant Street;
11. Walnut Street. Vehicles traveling east on Walnut Street shall stop at East Street;
12. Main Street. Vehicles traveling east on Main Street shall stop at East Street;
13. Elmore Street. Vehicles traveling east on Elmore Street shall stop at East Street;
14. Spring Street. Vehicles traveling east on Spring Street shall stop at East Street;
15. Grant Street. Vehicles traveling on Grant Street shall stop at Main Street;
16. Grant Street. Vehicles traveling on Grant Street shall stop at Harris Street;
17. Todd Street. Vehicles traveling on Todd Street shall stop at Harris Street;
18. East Street. Vehicles traveling south on East Street shall stop at North Street;
19. Linden Street. Vehicles traveling on Linden Street shall stop at Harris Street;
20. Linden Street. Vehicles traveling on Linden Street shall stop at Main Street;
21. Blanch Street. Vehicles traveling on Blanch Street shall stop at Main Street;
22. Blanch Street. Vehicles traveling on Blanch Street shall stop at Harris Street.

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

*(Code of Iowa, Sec. 321.345)*

1. Main Street and Todd Street. Vehicles approaching the intersection of Main Street and Todd Street from the east, north and south shall stop before entering such intersection;
2. Harris Street and Broadway Street. Vehicles approaching the intersection of Harris Street and Broadway Street from the west, north and south shall stop before entering such intersection.

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

*(Code of Iowa, Sec. 321.345)*

1. Intersection of Highway 9 and Highway 65;
2. Intersection of Broadway Street and Elmore Street;
3. Intersection of Fairview Street and Main Street;
4. Intersection of Fairview Street and Harris Street;
5. Intersection of Elmore Street and Iowa Street.

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

*(Code of Iowa, Sec. 321.345)*

1. Unnamed Street. Vehicles traveling south on the unnamed street at the end of West Walnut Street shall yield at Main Street.

**65.06 SCHOOL STOPS.** At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point ten (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 Broadway Street and Highway 9;
2. Intersection of East Street and Highway 9.

**65.07 STOP BEFORE CROSSING SIDEWALK.** The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall



proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

*(Code of Iowa, Sec. 321.353)*

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

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

*(Code of Iowa, Sec. 321.327)*

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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 & 472)*

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

*(Code of Iowa, Sec. 321.473 & 321E.1)*

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

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

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## **CHAPTER 67**

### **PEDESTRIANS**

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

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

**67.01 WALKING IN STREET.** Pedestrians shall at all times when walking on or along a street, walk on the left side of the street in single file.  
*(Code of Iowa, Sec. 321.326)*

**67.02 HITCHHIKING.** No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.  
*(Code of Iowa, Sec. 321.331)*

**67.03 PEDESTRIAN CROSSING.** Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.  
*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

### ONE-WAY TRAFFIC

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

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

1. East Main Street shall be westbound only from Broadway Street to Todd Street;
2. East Elmore Street shall be eastbound only from Todd Street to Broadway Street.

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## CHAPTER 69

### PARKING REGULATIONS

69.01 Park Adjacent to Curb  
69.02 Park Adjacent to Curb - One-way Street  
69.03 Angle Parking  
69.04 Angle Parking - Manner  
69.05 Parking for Certain Purposes Illegal  
69.06 Parking Prohibited

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

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. Main Street, on both sides from Broadway Street to Todd Street;
2. Elmore Street, on both sides from Broadway Street to Todd Street.

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

*(Code of Iowa, Sec. 321.361)*



**69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL.** No person shall park a vehicle upon public property for more than forty-eight (48) hours or for any of the following principal purposes:

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

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

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

1. Crosswalk. On a crosswalk.

*(Code of Iowa, Sec. 321.358 [5])*

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

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

4. Sidewalks. On or across a sidewalk.

*(Code of Iowa, Sec. 321.358 [1])*

5. Driveway. In front of a public or private driveway.

*(Code of Iowa, Sec. 321.358 [2])*

6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.

*(Code of Iowa, Sec. 321.358 [3])*

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

*(Code of Iowa, Sec. 321.358 [4])*

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.

*(Code of Iowa, Sec. 321.358 [6])*

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

*(Code of Iowa, Sec. 321.358 [8])*

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

*(Code of Iowa, Sec. 321.360)*

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10)

feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

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

1. Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside persons with disabilities parking spaces in accordance with the following:

A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons with disabilities parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one persons with disabilities parking space.

*(Code of Iowa, Sec. 321L.5[3a])*

B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent (60%) during normal business

hours, the entity shall provide additional persons with disabilities parking spaces as needed.

*(Code of Iowa, Sec. 321L.5[3b])*

C. An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

*(Code of Iowa, Sec. 321L.5[3c])*

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PERSONS WITH DISABILITIES PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	†
1001 and over	‡
† Two percent (2%) of total	
‡ Twenty (20) spaces plus one for each 100 over 1000	

*(Code of Iowa, Sec. 321L.5[3d])*

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one persons with disabilities parking space as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate persons with disabilities parking spaces in the visitors'

parking area in accordance with the table contained in subsection (1)(D) of this section.

*(IAC, 661-18.7[321L])*

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as persons with disabilities parking spaces.

*(Code of Iowa, Sec. 321L.5[4a])*

4. Other Spaces. Any other person may set aside persons with disabilities parking spaces on the person's property provided each parking space is clearly and prominently designated as a persons with disabilities parking space. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

*(Code of Iowa, Sec. 321L.5[3e])*

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

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

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

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

C. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

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

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

1. Highway 9, on the south side, from Todd Street to Broadway Street.
2. East Street, on both sides, from Main Street to Highway 9.
3. Highway 9, on the north side, from Linden Street to Highway 65.

**69.09 TRUCK PARKING LIMITED.** No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle, on any of the streets within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Corner of Broadway Street and Highway 9. No truck parking is allowed on the south side of Highway 9 at the corner of Highway 9 and Broadway Street.
3. Residential District. No truck parking is allowed on any street within a residential district except for the purpose of delivering or receiving merchandise or cargo.

**69.10 SNOW EMERGENCY.**

1. Parking Prohibited. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation throughout the duration of the snow or ice storm and the forty-eight (48) hour period after cessation of such storm except as above provided upon streets which have been fully opened. Such emergency may be extended or shortened when conditions warrant.
2. Proclamation. When weather forecasts or occurrences indicate the need, the Mayor shall proclaim a snow emergency and inform the news media to publicize the proclamation and the parking rules thereunder. Each year the Police Chief shall ensure that the snow emergency parking ban is widely publicized in early November.

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

*(Code of Iowa, Sec. 321.236)*

1. Fire Lanes Established. The Police Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.
2. Signs and Markings. Wherever a fire lane has been designated, the Police Chief shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.
3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

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## CHAPTER 70

### TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation  
70.02 Scheduled Violations  
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended  
70.05 Presumption in Reference to Illegal Parking  
70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

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

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

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

**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 payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of five dollars (\$5.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased to ten dollars (\$10.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

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

**70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED.** When a vehicle is parked in violation of any provision of the Traffic Code, and the



driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

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

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

**70.06 IMPOUNDING VEHICLES.** A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

4. Parked Over Forty-eight (48) Hour Period. When any vehicle is left parked for a continuous period of forty-eight (48) hours or more. If the owner is found, the owner shall be given an opportunity to remove the vehicle.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the

provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

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

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## CHAPTER 75

### ALL-TERRAIN VEHICLES AND SNOWMOBILES

<p>75.01 Purpose</p> <p>75.02 Definitions</p> <p>75.03 General Regulations</p> <p>75.04 Operation of Snowmobiles</p> <p>75.05 Operation of All-Terrain Vehicles</p>	<p>75.06 Hours of Operation</p> <p>75.07 Negligence</p> <p>75.08 Accident Reports</p> <p>75.09 Dead Man Throttle</p> <p>75.10 Noise</p>
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**75.01 PURPOSE.** The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

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

2. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks or treads.

*(Ord. 2005-09 – Nov. 05 Supp.)*

*(Code of Iowa, Sec. 321G.1[18])*

**75.03 GENERAL REGULATIONS.** No person shall operate an ATV 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, numbering, equipment and manner of operation.

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

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

1. Prohibited Use. Snowmobiles shall not be operated upon any City street during the period from April 1 to September 30 of each year.
2. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

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

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

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

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

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

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

(3) The driver yields the right-of-way to all on-coming traffic which 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])*

4. 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])*

## CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose  
75.02 Definitions  
75.03 General Regulations  
75.04 Places of Operation  
75.05 Hours of Operation

75.06 Negligence  
75.07 Accident Reports  
75.08 Dead Man Throttle  
75.09 Noise

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

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than seven hundred fifty (750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

2. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow or ice.

*(Code of Iowa, Sec. 321G.1 [18])*

**75.03 GENERAL REGULATIONS.** No person shall operate an ATV or snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation. The provisions of the traffic code of the City shall also be applicable to the operation of an ATV or snowmobile, except for those provisions which by their nature can have no application.

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

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

1. Prohibited Use. Snowmobiles shall not be operated upon any City street during the period from April 1 to September 30 of each year.
2. Streets. ATV's and snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.  
*(Code of Iowa, Sec. 321G.9[4a])*
3. Exceptions. ATV's and snowmobiles may be operated on prohibited streets only under the following circumstances:
  - A. Emergencies. ATV's and 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. ATV's and snowmobiles may make a direct crossing of a prohibited street provided:
    - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
    - (2) The ATV or snowmobile is brought to a complete stop before crossing the street;
    - (3) The driver yields the right-of-way to all on-coming traffic which 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])*
4. Railroad Right-of-way. ATV's and snowmobiles shall not be operated on an operating railroad right-of-way. An ATV or 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[8])*
5. Trails. ATV's shall not be operated on snowmobile trails and snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.  
*(Code of Iowa, Sec. 321G.9[4f and g])*

6. Parks and Other City Land. ATV's and 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.

7. Sidewalk or Parking. ATV's and 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 HOURS OF OPERATION.** No snowmobile or ATV shall be operated in the City between the hours of twelve o'clock (12:00) midnight to seven o'clock (7:00) a.m. except for emergency situations or for loading and unloading from a transport trailer.

**75.06 NEGLIGENCE.** The owner and operator of an ATV or snowmobile is liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile.

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

**75.07 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred dollars (\$200.00) 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 forty-eight (48) hours, in accordance with State law.

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

**75.08 DEAD MAN THROTTLE.** No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

**75.09 NOISE.** No snowmobile or ATV shall be operated in a manner so as to disturb or interfere with the peace and quiet of other persons.



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## CHAPTER 76

### BICYCLE REGULATIONS

76.01 Scope of Regulations  
76.02 Traffic Code Applies  
76.03 Double Riding Restricted  
76.04 Two Abreast Limit  
76.05 Bicycle Paths  
76.06 Speed  
76.07 Emerging from Alley or Driveway  
76.08 Carrying Articles

76.09 Riding on Sidewalks  
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Scooters Prohibited

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

**76.04 TWO ABREAST LIMIT.** Persons riding bicycles upon a roadway shall not ride two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

**76.05 BICYCLE PATHS.** Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

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

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

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

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

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

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

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

**76.09 RIDING ON SIDEWALKS.** The following shall apply to riding bicycles on sidewalks:

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.397)*

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

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

**76.14 SPECIAL PENALTY.** Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

**76.15 SKATEBOARDS, ROLLER SKATES, IN-LINE SKATES AND SCOOTERS PROHIBITED.** In order to protect the interest and investment of property owners, the ability of commercial and private enterprises to conduct business activities in a harmonious atmosphere, and in order to ensure the health, safety and well-being of business patrons, the activities of riding, propelling or skating of skateboards, roller skates, in-line skates and scooters or other devices similar in nature is hereby prohibited on public sidewalks within

all commercially zoned property within the City limits except those specially designated areas.

*(Ord. 2005-05 – Jul. 05 Supp.)*

## **CHAPTER 77**

### **GOLF CARTS**

**77.01 Purpose**

**77.02 Operation of Golf Carts Permitted**

**77.03 Prohibited Streets**

**77.04 Equipment**

**77.05 Hours**

**77.06 Speed**

**77.07 Traffic Code**

**77.01 PURPOSE.** The purpose of this chapter is to allow the operation of golf carts on the streets of the City.

**77.02 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon the streets of the City which are a direct route to and from the golf course by persons possessing a valid Iowa operator's license, except as prohibited in Section 77.03 of this chapter.

**77.03 PROHIBITED STREETS.** Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension.

**77.04 EQUIPMENT.** Golf carts operated upon City streets shall be equipped with adequate brakes, a slow moving vehicle sign and a bicycle safety flag at all times during operation.

**77.05 HOURS.** Golf carts may be operated on City streets only between sunrise and sunset.

**77.06 SPEED.** Golf carts shall not be operated on City streets at a speed in excess of fifteen (15) miles per hour.

**77.07 TRAFFIC CODE.** Operators of golf carts on public streets shall obey all State and local traffic control regulations and devices.

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## CHAPTER 80

### ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 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])*

1. "Abandoned vehicle" means any of the following:
  - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
  - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
  - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
  - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
  - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
  - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. "Demolisher" means 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. "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. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

**80.03 NOTICE BY MAIL.** The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal

property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

**80.04 NOTIFICATION IN NEWSPAPER.** If it is impossible to determine with reasonable certainty the identity 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 Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

*(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 (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

**80.09 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])*

*(Ch. 80 – 10-2005 – Nov. 05 Supp)*

## CHAPTER 80

### ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

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80.05 Extension of Time

80.06 Fees for Impoundment

80.07 Disposal of Abandoned Vehicles

80.08 Disposal of Totally Inoperable Vehicles

80.09 Proceeds from Sales

80.10 Duties of Demolisher

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

1. "Abandoned vehicle" means any of the following:

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

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a

vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or city.

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

**80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

**80.03 NOTICE BY MAIL.** The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a

public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten (10) day reclaiming period.

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

**80.04 NOTIFICATION IN NEWSPAPER.** If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

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

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

**80.06 FEES FOR IMPOUNDMENT.** The owner, lienholder or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

**80.07 DISPOSAL OF ABANDONED VEHICLES.** If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle

should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

**80.08 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.** The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

**80.09 PROCEEDS FROM SALES.** Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

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

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

## CHAPTER 81

# RAILROAD REGULATIONS

81.01 Definitions

81.02 Warning Signals

81.03 Obstructing Streets

81.04 Crossing Maintenance

81.05 Blocking Two Crossings Prohibited

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

1. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

*(Code of Iowa, Sec. 321.1 [29])*

2. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

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

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

**81.03 OBSTRUCTING STREETS.** Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of five (5) minutes except:

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

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



Operators violating any provision of this section are guilty of a misdemeanor. An employee is not guilty of such violation if the action is necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Such guilt is then with the railroad corporation.

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

*(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])*  
*(Code of Iowa, Sec. 364.11)*

**81.05 BLOCKING TWO CROSSINGS PROHIBITED.** It is unlawful for any railroad train to block more than two (2) intersections of a street and railroad tracks at any one time for a period longer than ten (10) minutes.

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## CHAPTER 90

# WATER SERVICE SYSTEM

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**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 Public Works of the City or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

**90.03 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

**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 cock 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 sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

**90.06 FEE FOR PERMIT AND CONNECTION CHARGE.** Before any permit is issued the person who makes the application shall pay ten dollars (\$10.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of one hundred seventy dollars (\$170.00) paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

**90.07 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of Division 4, Plumbing Rules and Regulations, of the State Building Code.

**90.08 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

**90.09 EXCAVATIONS.** All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

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

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 premise may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one size smaller than 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.

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

**90.11 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be type K copper tubing or approved schedule 140 P.V.C. Pipe must be laid sufficiently waving, and to a depth of six (6) feet, as to prevent rupture from settlement or freezing.

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

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

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

**90.14 CURB STOP.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

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

**90.16 INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall

permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

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

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

**90.19 OPERATION OF CURB STOP AND HYDRANTS.** It is unlawful for any person except the Superintendent to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

**90.20 WATER USE SUSPENDED OR RESTRICTED.** The right is reserved by the City to suspend or restrict the use of water for fountains and sprinkling of streets, yards and gardens, whenever the Council finds that the continued supply or reserves of the public water system are threatened, or adequate supply or reserves are depleted to threatening levels.

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## **CHAPTER 91**

### **WATER METERS**

**91.01 Purpose**  
**91.02 Water Use Metered**  
**91.03 Fire Sprinkler Systems- Exception**  
**91.04 Location of Meters**

**91.05 Meter Setting**  
**91.06 Meter Costs**  
**91.07 Meter Repairs**  
**91.08 Right of Entry**

**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by a plumber or the City.

**91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can 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 the yoke and 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 the meter shall be paid to the City by the property owner or customer prior to the installation of any such meter 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 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, then the property owner shall be liable for the cost of repairs. The City shall first notify the property owner by first class mail that the meter is in need of repair, the estimated cost of repair, and the circumstances that lead the City to believe the customer or property owner's negligence or carelessness resulted in damage to the meter. In all cases, the City shall first attempt to derive payment from the customer before demanding payment from the property owner. The property owner shall pay an installation fee of ten dollars (\$10.00) for the installation of a replacement water meter.

**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.

## 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  
92.10 Bulk Water  
92.11 Special Rates

**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. Base Rate - \$9.50 per meter
2. Usage Rate.
  - A. First 5,000 gallons at \$1.81 per 1,000 gallons.
  - B. Next 45,000 gallons at \$2.05 per 1,000 gallons.
  - C. All over 50,000 gallons at \$2.11 per 1,000 gallons.
3. The monthly per gallon rate set out in subsection 2 above may be adjusted annually as follows:
  - A. On or before February 2nd of each year the City Clerk may recommend to the City Council to adjust the water rate based on the multiplication of the current rate by a factor equal to the increase in the Consumer Price Index as established by the federal government for the preceding twelve month period.
  - B. The City Council shall consider the recommendation and any proposed change in the rate at the next Council meeting.

*(Ord. 2005-08 – Jul. 05 Supp.)*

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates as provided in Section 92.02, plus an additional flat rate of \$1.00 per month. No such customer, however, will be

served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 364.4 & 384.84)*

**92.04 BILLING FOR WATER SERVICE.** Water service shall be billed as part of a combined service account, payable in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Meters Read. Water meters shall be read each month.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on a monthly basis before the first day of each month.

*(Ord. 2002-06 – Nov. 02 Supp.)*

3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) of each month.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

**92.05 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified.
4. Fees. A fee of twenty-five dollars (\$25.00) shall be charged before service is restored to a delinquent customer. A fee of ten dollars (\$10.00) 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 premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.** The lien for nonpayment shall not apply to residential rental properties where water service is separately metered and the charges therefor are paid directly by the tenant, providing the landlord has given written notice to the Clerk that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of occupancy and the date of occupancy. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the Clerk shall refund the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property.

*(Code of Iowa, Sec. 384.84)*

**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. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten (10) 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 sixty-five dollar (\$65.00) deposit intended to guarantee the payment of bills for service. The deposit shall be refunded to the customer after twenty-four (24) consecutive months of payment having been received in a timely fashion and without arrears unless the customer, not the owner of the premises, is a party to the lien exemption under 92.07, in which case the deposit will only be refunded upon payment of the final bill or will be used for final payment

*(Code of Iowa, Sec. 384.84)*

**92.10 BULK WATER.** Bulk water shall be furnished by meter measurement provided a one hundred dollar (\$100.00) main hydrant meter deposit has been made to the City to ensure the return of the meter in good working order. The rates for bulk water shall be as established by resolution of the Council.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose  
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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 Owner's Liability Limited  
95.09 Use of Easements  
95.10 Special Penalties

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

*(IAC, 567-69.3[1])*

2. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

*(IAC, 567-69.3[1])*

3. "C.B.O.D." (denoting Carbonaceous Biochemical Oxygen Demand) means the amount of oxygen consumed in the biological processes that break down carbonaceous organic matter in water by aerobic biochemical action in five (5) days at twenty degrees (20°) C.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.



7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow

exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of Public Works of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 SUPERINTENDENT.** The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which 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 which in turn 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 ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet (30.5 meters) 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])*

*(IAC, 567-69.3[3])*

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

**95.07 RIGHT OF ENTRY.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation,

measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**95.08 OWNER'S LIABILITY LIMITED.** While performing the necessary work on private property, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

**95.09 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.

**95.10 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 guilty of a misdemeanor, and on conviction thereof shall be fined an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Permit Fee  
96.03 Plumber Required  
96.04 Excavations  
96.05 Connection Requirements

96.06 Interceptors Required  
96.07 Sewer Tap  
96.08 Inspection Required  
96.09 Property Owner's Responsibility  
96.10 Abatement of Violations

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE.** The person who makes the application shall pay a fee in the amount of ten dollars (\$10.00) 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 plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

**96.04 EXCAVATIONS.** All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

**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 connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. 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 ten (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 twelve (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 (4) inches.
6. **Alignment and Grade.** All building sewers shall be laid to a straight line and at a uniform grade of not less than the following:
  - A. **Four (4) inch lines:** one-fourth ( $\frac{1}{4}$ ) inch per foot.

- B. Six (6) inch lines: one-eighth (1/8) inch per foot.
  - C. Minimum velocity: 2.50 feet per second with the sewer half full.
  - D. Deviations: any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with properly curved pipe and 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 Division 4 of the State Building 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. Cast and ductile iron water pipe - A.S.T.M. A-377.
  - D. P.V.C. - DWV - A.S.T.M. D-2665.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be commensurate with the type of pipe used, subject to the approval of the Superintendent.
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 (6) 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 provided by the Iowa Public Health Bulletin and Division 4 of the State Building 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 "Y" saddle 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 and attached with 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 under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**96.10 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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## CHAPTER 97

### USE OF PUBLIC SEWERS

97.01 Storm Water  
97.02 Surface Waters Exception  
97.03 Prohibited Discharges  
97.04 Restricted Discharges

97.05 Restricted Discharges - Powers  
97.06 Special Facilities  
97.07 Control Manholes  
97.08 Testing of Wastes

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as 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 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 in excess of two (2) 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 C.B.O.D., Solids or Flow.** Any waters or wastes having (a) a five (5) day carbonaceous biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. 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 (a) reduce the carbonaceous biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

**97.04 RESTRICTED DISCHARGES.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ( $\frac{1}{2}$ ) 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 which 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 or 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 which 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 C.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 which 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 which 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 which 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.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**97.07 CONTROL MANHOLES.** When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods of 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 twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, C.B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).



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## CHAPTER 98

### PRIVATE 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.** Where 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 a private on-site wastewater treatment and disposal system complying with the provisions of this chapter.

**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 to such additional requirements as are prescribed by the regulations of the County Board of Health.

*(IAC, 567-69.3[3])*

**98.04 PERMIT REQUIRED.** No person shall install or reconstruct a private 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 a private on-site wastewater treatment and disposal system to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the County Board of Health.

*(IAC, 567-69.3[3])*

**98.06 MAINTENANCE OF SYSTEM.** The owner of a private 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 a private 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.

## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Rate  
99.03 Special Rates  
99.04 Private Water Systems

99.05 Payment of Bills  
99.06 Lien for Nonpayment  
99.07 Special Agreements Permitted

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service fees as hereinafter provided.

*(Code of Iowa, Sec. 384.84)*

**99.02 RATE.** Each customer shall pay sewer service charges in the amount of fifty percent (50%) of the bill for water and water service attributable to the customer for the property served, but in no event less than \$3.88 per month.

*(Code of Iowa, Sec. 384.84)*

**99.03 SPECIAL RATES.** Where, in the judgment of the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be established by resolution of the Council.

*(Code of Iowa, Sec. 384.84)*

**99.04 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)*

**99.05 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and

delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.07 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.

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# **GARBAGE AND SOLID WASTE**

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## CHAPTER 105

### SOLID WASTE CONTROL

105.01 Purpose  
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105.03 Sanitary Disposal Required  
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105.05 Open Burning Restricted  
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited  
105.08 Open Dumping Prohibited  
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105.12 Sanitary Disposal Project Designated

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste from public and private places.

2. "Director" means the director of the State Department of Natural Resources or any designee.

*(Code of Iowa, Sec. 455B.101[2b])*

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

*(Code of Iowa, Sec. 455B.361[2])*

4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

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.

*(IAC, 567-100.2)*

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.

*(IAC, 567-20.2[455B])*

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

*(Code of Iowa, Sec. 455B.361[1])*

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.

*(IAC, 567-100.2)*

10. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including four (4) 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 and trade waste.

*(IAC, 567-20.2[455B])*

12. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

*(IAC, 567-100.2)*

13. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

*(IAC, 567-100.2)*

14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final



disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

*(Code of Iowa, Sec. 455B.301)*

15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

*(Code of Iowa, Sec. 455B.301)*

**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 thirty (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:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises is permitted three (3) weeks in the spring and three (3) weeks in the fall. Such weeks are designated by the Council annually. The following restrictions apply to the burning of landscape waste:

*(IAC, 567-23.2[3d])*

- A. Only leaves, grass clippings, small twigs and branches produced on the site are eligible for burning. Burning of rubbish and paper products is prohibited. Rubber tires or oil products shall not be used to ignite landscape waste.
- B. Burning is allowed only during the three (3) weeks in spring and three (3) weeks in fall that are designated, and under favorable weather conditions. All fires must be extinguished by sundown, and may not be left to smolder or smoke.
- C. Burning shall not take place within fifty (50) feet of a structure or closer than twenty-five (25) if the pile is three (3) feet or less across and two (2) feet or less in height. However, the burning of landscape waste produced in clearing, grubbing and construction operations is limited to areas located at least one quarter (1/4) mile from any inhabited building. No burning shall be done on any public street or alley.
- D. A garden hose connected to a water supply or other approved fire extinguishing equipment must be readily available at the burning site.
- E. All burning material shall be constantly attended by a person who shall take responsibility for the burning.
- F. Police officers or the Fire Chief shall be authorized to order the burning ceased if smoke emissions are a problem.
- G. It is illegal to accumulate landscape waste on any public street or alley or right-of-way. It is the responsibility of the abutting property owner to dispose of such waste properly in accordance with the chapter.
- H. Burning barrels are prohibited.

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.

*(IAC, 567-23.2[3e])*

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

7. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3h])*

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

9. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

*(IAC, 567-23.2[2])*

**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 in accordance with Section 105.05(4) of this chapter, or placed in acceptable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

*(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)*

**105.09 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2)*

*(IAC, 567-102.14[2] and 400-27.14[2])*

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair 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 shall be of sufficient capacity, leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain barrel containers provided by the City.

C. Multiple-family Dwellings. The owner of a multiple-family dwelling shall provide and maintain a protected, solidly enclosed container of wood, metal or plastic where solid waste bags from the premises shall be placed for collection. The owner of the premises shall be guilty of a misdemeanor for each incident that solid waste is left in any other place and upon conviction shall be subject to the maximum penalty for each incident.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Solid waste set out for collection must be placed in a yellow, orange or blue plastic bag which has the name of the City imprinted thereon. The weight of the plastic bags shall not exceed forty (40) pounds when full. The bags shall be placed at the curb line by the owner or occupant of the premises served by seven o'clock (7:00) a.m. on the day of collection, but shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day.

**105.11 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from

which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.12 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities which serve as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City are established by resolution of the Council.

## CHAPTER 106

### COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection

106.05 Bulky Rubbish  
106.06 Right of Entry  
106.07 Collection Fees  
106.08 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide for the collection of solid waste, except bulky rubbish as provided in Section 106.05, within the City, except for those commercial, industrial or institutional premises that utilize bulk dumpster containers. The owners or operators of such commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor 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 therefrom

as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 COLLECTION FEES.** The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Fee for Collection. The fee for solid waste collection and disposal service, used or available, is \$4.00 per month.
2. Fee for Containers.
  - A. City Bags. The fee for the plastic bags, required by the City, is \$.50 for a 7-gallon bag, \$.75 for a 17-gallon bag and \$1.25 for a 33-gallon bag.
  - B. Commercial Barrels. The fee for the commercial barrels provided by the City is \$4.00 per barrel per month for one weekly collection.
3. Payment of Bills. The fee for collection is due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.08 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes and the City may seek a civil judgment against the owner or tenant in accordance with State law.

*(Code of Iowa, Sec. 384.84)*



## **CHAPTER 107**

# **RECYCLING**

**107.01 Purpose**  
**107.02 Definitions**  
**107.03 Residential Recycling**  
**107.04 Containers**

**107.05 Anti-Scavenging**  
**107.06 Disposal**  
**107.07 Recycling Fee**  
**107.08 Lien for Nonpayment**

**107.01 PURPOSE.** The purpose of this chapter is to encourage the recovery and reuse of recyclable materials through mandatory separation and collection.

**107.02 DEFINITIONS.** As used in this chapter, the following words, terms and phrases have the following meanings and inclusions:

1. "Dwelling unit" means one or more rooms within a structure which are arranged, designed or used as living quarters for one family.
2. "Family" means any number of persons living together in a room or rooms comprising a single household unit.
3. "Non-recyclable materials" means and includes solid waste, refuse, construction debris and other materials for which there are no appropriate existing recycling markets.
4. "Recyclable materials" means and includes aluminum cans and containers, tin cans, glass bottles and jars (made of clear, green or brown glass), plastic bottles and jugs, newspapers and such materials as the City may by resolution designate or delete from time to time.
5. "Recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in a manufacturing process that does not cause the destruction of the material in a manner that precludes further use.
6. "Source separation" means to divide or separate out from the main body, to make distinguishable from, to isolate or to seclude.

**107.03 RESIDENTIAL RECYCLING.** Every person living in a dwelling unit within the corporate limits of the City shall:

1. Separate recyclable materials from non-recyclable materials. All recyclable materials shall be placed in one container.
2. Empty, rinse clean and remove caps from all recyclable materials, and remove labels and lids from all tin cans.

3. Place all recyclable material at the curb side by seven o'clock (7:00) a.m. on the designated day of pickup.

**107.04 CONTAINERS.** Recyclable materials shall be placed for collection in containers designated and labeled as Recycling Containers or by use of the appropriate recycling logo as designated by the City. The size of all containers shall be a minimum of 20 gallons and maximum of 30 gallons. Said containers shall be rubber or plastic, cylindrical in shape, must have exterior handles and a lid. The maximum weight of an empty container shall not exceed 10 pounds. Said container shall be yellow in color and shall be purchased from the City and only containers purchased from the City shall be used. All persons shall maintain the recycling containers in a sanitary condition and shall replace lost or damaged containers at their own expense within ten (10) days of receiving written notice to do so from the City-designated collector of recyclable materials. No person shall place yard waste or any other non-recyclable material in a recycling container. Recyclable materials shall be made available for collection bimonthly and shall be collected by the City-designated collector.

**107.05 ANTI-SCAVENGING.** Ownership of recyclable materials placed for collection shall be vested in the collector designated by the City. No person other than the City-designated collector shall take or collect any recyclable materials placed for collection. Nothing in this section shall preclude a person from disposing of recyclable materials with commercial recyclers or salvage yards. This section does preclude all persons other than the City-designated collector from conducting drives for the collection of recyclable materials.

**107.06 DISPOSAL.** Recyclable materials collected within the City shall not be burned or deposited in any landfill except with the express, written consent of the City, nor shall they be otherwise disposed of in any way or manner which is contrary to applicable law, statute, ordinance, rule or regulation.

**107.07 RECYCLING FEE.** The collection and disposal of recyclable materials as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a fee therefor in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Fee for Collection. The fee for the recyclable materials collection and disposal service, used or available, is \$2.00 per month for each residential dwelling unit.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service

account as contained in Section 92.04 of this Code of Ordinances. Recyclable materials collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

3. Temporary Vacancy. Persons leaving on vacation or for an extended period of more than a month may notify the Clerk of such absence and upon such notification the recycling fee will be discontinued for that period of time. Upon return, the customer shall notify the Clerk of the date of return.

**107.08 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for recyclable materials collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes and the City may seek a civil judgment against the owner or tenant in accordance with State law.

*(Code of Iowa, Sec. 384.84)*

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# **FRANCHISES AND OTHER SERVICES**

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## CHAPTER 110

### NATURAL GAS FRANCHISE

110.01 Franchise Granted  
110.02 Right-of-way Granted  
110.03 Indemnity  
110.04 Restoration of Property

110.05 Interference With Streets  
110.06 Gas Lines  
110.07 Extension of Service  
110.08 Tax Exemption

**110.01 FRANCHISE GRANTED.** There is hereby granted unto Interstate Power Company, a Delaware Corporation, its successors and assigns, herein called the "Grantee," the right, permission, privilege and franchise, for a period of twenty-five (25) years from and after the taking effect of the ordinance codified by this chapter, subject only to the laws of the State in force at the time of the adoption of said ordinance and to the conditions and limitations hereinafter contained, to erect, install, construct, extend, manage, control, operate, maintain, repair, replace and remove a system for the manufacture, distribution and sale of natural or artificial gas or a mixture thereof, to the City and its inhabitants for light, heat, power and any other purposes for which gas may be used.

**110.02 RIGHT-OF-WAY GRANTED.** The Grantee, its successors and assigns are hereby granted the right-of-way in, upon, over, across, along and under the streets, roads, alleys, avenues, sidewalks, bridges, parkways and other public grounds of the City for the purpose of erecting, installing, constructing, extending, managing, controlling, operating, maintaining, repairing, replacing and removing all necessary plants, works, mains, services, conduits, pipes, tanks and apparatus necessary or convenient for such system.

**110.03 INDEMNITY.** The Grantee shall hold the City free and harmless of and from any and all liability, damages, actions and causes of action, caused by or through the neglect or mismanagement of the Grantee in the erection, installation, construction, extension, operation, maintenance, repair, replacement and removal of said plant and distribution system.

**110.04 RESTORATION OF PROPERTY.** The Grantee shall not, during the erection, installation, construction, reconstruction, extension, operation, maintenance, repair, replacement and removal of said plant or distribution system, unnecessarily impede public travel on the streets, roads, alleys, avenues, sidewalks, bridges, parkways or other public grounds of the City, and shall leave all of said streets, roads, alleys, sidewalks, bridges, parkways or other public grounds upon which it may enter for the purposes herein authorized in as

good a condition as they were at the date of said entry. Whenever the Grantee takes up or disturbs any pavement or other improvement of any street, road, alley, avenue, sidewalk, bridge, parkway or other public ground of the City in connection with the construction, maintenance or operation of its said system for the distribution of gas, the same shall promptly be replaced in as good condition as they were before being disturbed.

**110.05 INTERFERENCE WITH STREETS.** The Grantee, in constructing and maintaining its gas distribution system and in entering and using said streets, roads, alleys, avenues, sidewalks, bridges, parkways or other public grounds of the City, shall take care not to unnecessarily interfere with or injure any improvements which the City now has or may hereafter have upon any of its streets, roads, alleys, avenues, sidewalks, bridges, parkways or other public grounds.

**110.06 GAS LINES.** The Grantee shall have the right, also for the purpose of supplying gas to the inhabitants of the City and in the vicinity thereof, to lay and maintain gas mains or pipe lines for the procuring of gas from sources outside the City and also for the distribution of gas for supplying persons outside of and beyond the limits of the City.

**110.07 EXTENSION OF SERVICE.** The Grantee will extend service to any customer within the corporate limits of the City in accordance with the Service Standards of the Grantee as filed with the State Utilities Board. In the event that the pipeline company furnishing natural gas to the Grantee is unable to furnish the Grantee's full gas service requirements for service in the City, the Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural gas to existing and prospective firm gas users.

**110.08 TAX EXEMPTION.** The pipes and other facilities placed in the streets and public places in the City are exempt from any special tax, assessment, license or rental charge during the entire term of the franchise.

**EDITOR'S NOTE**

Ordinance No. 46.05 adopting a gas franchise for the City was passed and adopted on October 1, 1986.

## CHAPTER 111

### ELECTRIC FRANCHISE

111.01 Franchise Granted  
111.02 Repair of Public Grounds  
111.03 Interference with Improvements  
111.04 Maintenance and Extension of Service

111.05 Regulation by City  
111.06 City Liability Limited  
111.07 Grantee Default  
111.08 Nonexclusive Franchise

**111.01 FRANCHISE GRANTED.** Interstate Power Company, a corporation, its lessees, successors and assigns, hereinafter referred to as Grantee, are hereby granted a nonexclusive authority for a period not to exceed twenty-five (25) years, or until August 5, 2011, to erect, construct, maintain and operate an electric power plant and distribution system, and any and all necessary transmission lines, wires, poles and other appurtenances and equipment thereunto appertaining, in, upon, over, across and along the streets, alleys, bridges and public places in the City for the transmission, distribution and sale of electricity for lighting, heating, industrial and all other uses and purposes in the City.

**111.02 REPAIR OF PUBLIC GROUNDS.** Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public place within the corporate limits of the City, the same shall be done in a manner so as not to unreasonably interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the City. In the event that the Grantee fails to comply with the provisions of this section after having been given reasonable notice, the City may do such work as may be needed to properly repair said thoroughfare and the cost thereof shall be repaid to the City by the Grantee.

**111.03 INTERFERENCE WITH IMPROVEMENTS.** The Grantee, in constructing and maintaining said electric distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City, and installing its transmission lines, services, wires, poles and related appurtenances and equipment, shall not in any manner interfere with or injure



any improvement which the City now has or may hereafter have upon any of its streets, alleys, highways or public places.

**111.04 MAINTENANCE AND EXTENSION OF SERVICE.** Grantee agrees for and on behalf of itself, its lessees, successors and assigns, that for and during the term and period of the franchise, it will maintain in the City an adequate, modern, standard and sufficient electric system and equipment and maintain and operate the same in a modern and adequate fashion and in a manner adequate to meet the necessities and requirements of the City, its industries and inhabitants; provided, however, the Grantee shall not be required to extend its electric distribution system more than 300 feet for each customer to be served from any extensions thereof, and provided further, that no obligation shall extend to or be binding upon the Grantee to construct or extend its lines or wires for electrical service within the City if Grantee is, for any reason, unable to obtain or create electrical power at or near the corporate limits of the City or an adequate supply thereof to warrant the construction or extension of its lines for the furnishing of such electrical service, and provided further, that when the amount of electrical service supplied to Grantee at or near the corporate limits of the City is insufficient to meet the additional firm requirements of connected or new customers, Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of electrical power for such additional firm requirements to domestic, commercial and industrial customers in that order of priority.

**111.05 REGULATION BY CITY.** Grantee agrees for and on behalf of itself, its lessees, successors and assigns, that all authority and rights in the franchise contained shall at all times be subject to all rights, power and authority now or hereafter possessed by the City to regulate the manner in which the Grantee shall use the streets, alleys, bridges and public places of the City and concerning the manner in which Grantee shall use and enjoy the franchise herein granted.

**111.06 CITY LIABILITY LIMITED.** The Grantee shall hold the City harmless from any and all claims and actions, litigation or damage, arising out of the passage of the ordinance codified herein or of the construction, erection, installation, maintenance or operation of its properties operated by authority of this chapter within the corporate limits of the City or the negligence of its employees in the operation thereof, including the Court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the City shall be served by the City upon the Grantee. The Grantee shall have the right to defend in the name of the City and to employ counsel for such purpose.

**111.07 GRANTEE DEFAULT.** If the Grantee shall be in default in the performance of any of the terms and conditions of this chapter and shall continue in default for more than thirty (30) days after receiving notice from the City of such default, the City may, by ordinance duly passed and adopted, terminate all rights granted under this chapter to the Grantee. The said notice of default shall specify the provision or provisions in the performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of the State for service of original notices in civil actions.

**111.08 NONEXCLUSIVE FRANCHISE.** The right and authority herein granted shall be nonexclusive and shall be and continue for a period of not to exceed twenty-five (25) years from and after the effective date of the ordinance granting the franchise as defined herein and saved from repeal.

**EDITOR'S NOTE**

An ordinance granting an electric franchise to Interstate Power Company was adopted by the Council on August 5, 1986.

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## **CHAPTER 112**

### **CABLE TELEVISION FRANCHISE**

#### **112.01 Grant of Franchise**

#### **112.03 Assignment or Transfer**

#### **112.02 Effective Date of Franchise**

**112.01 GRANT OF FRANCHISE.** A nonexclusive right is hereby granted to Holiday Cablevision, Inc. (hereinafter referred to as the "Grantee"), its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of twenty (20) years, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. to sell and supply audio and video communication service to persons within the City;
2. to use public property within the City, subject to Council approval;
3. to engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

**112.02 EFFECTIVE DATE OF FRANCHISE.** The franchise shall become effective from and after the effective date of the ordinance codified herein and compliance by the Grantee with Federal Communications Commission rules and regulations.

**112.03 ASSIGNMENT OR TRANSFER.** The Grantee shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the franchise to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee is a general partner without prior consent of the City.

**EDITOR'S NOTE**

Ordinance No. 1-11 adopting a cable television franchise for the City was passed and adopted on June 19, 1982. Pursuant to official action, the franchise has been transferred to Triax Cable Vision, Inc.

## CHAPTER 113

### CABLE TELEVISION REGULATIONS

113.01 Purpose	113.23 Performance Standards
113.02 Definitions	113.24 Channel Capacity and Performance
113.03 Use of Property	113.25 Installation and Maintenance of Subscriber Terminals in City Buildings and Schools
113.04 Taxes	113.26 Telecast of Educational Activities
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113.08 Assignment	113.30 Service Agreements
113.09 Insolvency of Grantee	113.31 Payments to City
113.10 Default of Grantee	113.32 Injury to Property of Grantee
113.11 Termination	113.33 Intercepting Signals of Grantee
113.12 Compliance with Applicable Laws	113.34 Filing of Reports
113.13 FCC Notification	113.35 Filing of Maps and Plats
113.14 Installation and Maintenance of Property of Grantee	113.36 Filing of Communications with Regulatory Agencies
113.15 Interference	113.37 Access
113.16 Installation of Cables	113.38 Discrimination Prohibited
113.17 Restoration of Ground Surface	113.39 Other Business Activities Prohibited
113.18 Alteration of Grade	113.40 Arbitration
113.19 Temporary Removal of Cables	113.41 Service Complaints
113.20 Tree Trimming	113.42 Reservations
113.21 Line Extensions	
113.22 Service Requirements	

**113.01 PURPOSE.** The purpose of this chapter is to regulate cable television systems within the City; provide for City regulation of the use thereof consistent with Federal Communication Commission rules and regulations; set forth conditions accompanying the granting of cable television system franchises; provide for operational standards; establish conditions for the use of City streets, alleys, sidewalks, bridges and other City-owned property; establish rates and charges; and provide for penalties for violations.

**113.02 DEFINITIONS.** The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Cable Television System" means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. "Channel" means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. "FCC" means the Federal Communications Commission.

4. "Franchise" means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. "Grantee" means Triax Cable Vision, Inc. When the context so requires, the term "Grantee" means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.
7. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.
8. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

**113.03 USE OF PROPERTY.** The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable thereto.
2. The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
  - A. Impair the owner's interest in or title thereto;
  - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
  - C. Adversely affect the then value or character thereof;
  - D. Cause or be likely to cause structural damage thereto, or any part thereof;
  - E. Cause or be likely to cause any damage or injury to any utility service available thereto;

F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;

G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

**113.04 TAXES.** The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

**113.05 INSURANCE.** The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. General Liability. Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall be not less than \$100,000 as to any one person, \$300,000 as to any one occurrence for injury or death to persons, and \$100,000 for damages to property, with so-called umbrella coverage of at least \$1,000,000.

2. Worker's Compensation. Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.

3. Automobile. Automobile Insurance with limits of not less than \$100,000/\$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000 covering all automotive equipment, with so-called umbrella coverage of at least \$1,000,000.

4. Notice of Cancellation. All of said insurance coverage shall provide a ten (10) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.



5. **Copies Filed.** Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

6. **Defense Costs.** The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

**113.06 REPAIRS.** During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed. The Grantee agrees to give written notice to the Mayor in the event repairs are not commenced within 48 hours after the breakdown.

**113.07 HOLD HARMLESS.** During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever indemnifies the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property or person whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

**113.08 ASSIGNMENT.** The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a

corporation wholly owned by the Grantee or to a limited partnership of which the Grantee is a general partner without the prior consent of the City.

**113.09 INSOLVENCY OF GRANTEE.** In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within sixty (60) days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

**113.10 DEFAULT OF GRANTEE.** In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within thirty (30) days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

**113.11 TERMINATION.** Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

**113.12 COMPLIANCE WITH APPLICABLE LAWS.** During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

**113.13 FCC NOTIFICATION.** The Grantee shall notify the FCC of the granting of the franchise as required by the regulations of the FCC.

**113.14 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE.** During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to

unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

**113.15 INTERFERENCE.** The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the Grantee.

**113.16 INSTALLATION OF CABLES.** The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

**113.17 RESTORATION OF GROUND SURFACE.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

**113.18 ALTERATION OF GRADE.** In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

**113.19 TEMPORARY REMOVAL OF CABLES.** The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

**113.20 TREE TRIMMING.** The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the

City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

**113.21 LINE EXTENSIONS.** It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of thirty (30) potential subscribers per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

**113.22 SERVICE REQUIREMENTS.** During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

**113.23 PERFORMANCE STANDARDS.** The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

**113.24 CHANNEL CAPACITY AND PERFORMANCE.** During the term of the franchise, the cable television system of the Grantee shall provide a minimum of thirty-six (36) channel capacity and performance requirements contained in the FCC regulations.

**113.25 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS.** During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Grantee shall furnish a terminal at its expense and any additional terminals shall be at the expense of the City. This provision is meant

to apply only to those buildings accessible to Grantee's system. The designated public buildings will be equipped for two-way capability. The Grantee will furnish to the educational system access to the local origination channel for sending VTR programming to the system.

**113.26 TELECAST OF EDUCATIONAL ACTIVITIES.** The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

**113.27 PROGRAM ALTERATION.** Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

**113.28 CHANGE OF SUBSCRIBER RATES AND CHARGES.** Grantee's rates and charges presently in effect for installation, moving of equipment and for basic monthly cable television service are hereby approved by the City. A current schedule of rates will be kept on file with the Clerk. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval of the City.

**113.29 SERVICE RULES AND REGULATIONS.** The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

**113.30 SERVICE AGREEMENTS.** The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

**113.31 PAYMENTS TO CITY.** The Grantee shall pay to the City three percent (3%) of its gross basic annual revenue for service rendered to customers serviced by the Manly franchise. At the close of the Grantee's fiscal year, an annual report shall be provided to the Council detailing all revenue received by the Grantee and indicating the source of said revenues. The City reserves the

right to require additional information if needed. All payments as required by the Grantee to the City shall be made annually and shall be due forty-five days after the close of the Grantee's tax year.

**113.32 INJURY TO PROPERTY OF THE GRANTEE.** No person shall wrongfully or unlawfully injure the property of the Grantee.

**113.33 INTERCEPTING SIGNALS OF THE GRANTEE.** No person shall wrongfully or unlawfully intercept the signals of the Grantee.

**113.34 FILING OF REPORTS.** On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

**113.35 FILING OF MAPS AND PLATS.** On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

**113.36 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES.** The Grantee shall file with the City, copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

**113.37 ACCESS.** The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

**113.38 DISCRIMINATION PROHIBITED.** The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

**113.39 OTHER BUSINESS ACTIVITIES PROHIBITED.** During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

**113.40 ARBITRATION.** Any controversy between the City and the Grantee regarding the rights, duties and liabilities of either party under the franchise

shall be settled by arbitration. This section shall not apply to termination proceedings under Section 113.11. Such arbitration shall be before three (3) disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

**113.41 SERVICE COMPLAINTS.** During the term of the franchise, or any extension thereof, the Grantee shall maintain an office or designated agent in the City, or an office which may be reached by a toll-free telephone call, for the purpose of receiving, investigating and responding to the complaints and grievances with respect to the quality of the service rendered by the Grantee, equipment malfunctions and other matters relating to the cable television system of the Grantee.

**113.42 RESERVATIONS.** The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

## **CHAPTER 114**

### **CABLE TELEVISION CUSTOMER SERVICE STANDARDS**

**114.01 Enforcement of Customer Service Standards**  
**114.02 Notification**

**114.03 Rules and Procedures**  
**114.04 Penalty**

#### **114.01 ENFORCEMENT OF CUSTOMER SERVICE STANDARDS.**

The City has the legal authority to adopt and enforce customer service standards for the cable television system in the City as permitted by the Cable Television Consumer Protection and Competition Act of 1992. Upon review of the customer service standards adopted by the FCC on March 11, 1993, by MM Docket No. 92-263 of the FCC, and deeming it in the best interests of the City, the Council hereby adopts by reference the above mentioned customer service standards for cable television service.

**114.02 NOTIFICATION.** The Clerk shall notify the Cable Operator by registered mail with return receipt that the City has adopted said customer service standards for cable television service, to become effective at least 90 days from passage of the ordinance codified herein.

**114.03 RULES AND PROCEDURES.** The Council shall establish rules and procedures regarding the process to remedy possible violations of the customer service standards by the Cable Operator. The Council shall provide for notice and opportunity for hearing for both the customers and the Cable Operator in such process.

**114.04 PENALTY.** If after notice and opportunity for hearing, the City determines that the Cable Operator is not in complete compliance with all the provisions of the customer service standards, the Cable Operator shall reduce the rate for the basic tier of cable service by twenty-five percent (25%) until such time that the City has been satisfied that the Cable Operator is in compliance with all the provisions of the customer service standards. In addition, the Cable Operator shall pay to the City the sum of \$100.00 for each day that the Cable Operator fails to be in compliance with all the provisions of the standards after the date that the Council has passed a resolution stipulating the sections where the Cable Operator is in noncompliance.



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**CHAPTER 115**  
**TELEPHONE FRANCHISE**

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**REGULATION OF BUSINESS AND VOCATIONS**  
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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

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

*(Code of Iowa, Sec. 123.22, 123.122 & 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 & 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32 [2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

*(Code of Iowa, Sec. 123.49 [1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

*(Code of Iowa, Sec. 123.49 [2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49 [2f])*

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49 [2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or

immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

*(Code of Iowa, Sec. 123.49 [2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

*(Code of Iowa, Sec. 123.49 [2e])*

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49 [2g])*

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## CHAPTER 121

### CIGARETTE PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Permit Suspension and Revocation  
121.09 Effect of Revocation

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

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

*(Code of Iowa, Sec. 453A.1[2])*

2. "Place of business" means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.

*(Code of Iowa, Sec. 453A.1[17])*

3. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.

*(Code of Iowa, Sec. 453A.1[19])*

4. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

*(Code of Iowa, Sec. 453A.1[23])*

**121.02 PERMIT REQUIRED.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for

each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

*(Code of Iowa, Sec. 453A.13)*

**121.03 APPLICATION.** A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13)*

**121.04 FEES.** The fee for a retail cigarette permit shall be as follows:

*(Code of Iowa, Sec. 453A.13)*

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.

*(Code of Iowa, 453A.13)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine.

*(Code of Iowa, Sec. 453A.2 and 453A.36[6])*

**121.08 PERMIT SUSPENSION AND REVOCATION.** If a retailer or employee of a retailer violates the provisions of Section 121.07, the Council

shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

1. For a first violation, the violator shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the violator's permit shall be suspended for a period of thirty (30) days.
3. For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.
4. For a fourth violation within a period of five (5) years, the violator's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.22)*

**121.09 EFFECT OF REVOCATION.** If a permit is revoked, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

*(Code of Iowa, Sec. 453A.22[3])*

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## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 Transient Merchant Bond	122.15 Appeal
122.06 Peddler and Solicitor Bond	122.16 Effect of Revocation
122.07 License Issued	122.17 Consumer Protection Law
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	122.20 Obstruction of Pedestrian or Vehicular Traffic

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Before any person or organization engages in any of the practices defined herein, said person or organization must comply with all applicable ordinances and must also obtain from the Clerk a license in

accordance with the provisions of this chapter. This license may extend no longer than one year. A license fee in the amount of five dollars (\$5.00) per day or twenty-five dollars (\$25.00) per year shall be paid at the time of application to cover the cost of investigation and issuance.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall contain the following information:

1. Name and social security number.
2. Permanent and local post office addresses and, in case of transient merchants, the local post office address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the good offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the nature of the offense and the penalty imposed.
7. Motor vehicle make, model, year, color and registration number, if a vehicle is to be used in the proposed activity.
8. A photostatic copy of the applicant's driver's license and social security card.

**122.05 TRANSIENT MERCHANT BOND.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.06 PEDDLER AND SOLICITOR BOND.** Before a license under this chapter is issued to a peddler or solicitor, an applicant shall post with the Clerk a bond, by a surety company authorized to insure the fidelity of others in Iowa, in an amount equal to two times the value of the goods, wares or merchandise to be sold or offered for sale or the average inventory to be carried, but which is at least a minimum of \$1,000.00, to the effect that the applicant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary:

1. To indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and
2. To make payment of any judgment rendered against the applicant as a result of a claim or litigation arising out of or in connection with the applicant's peddling or solicitation.

The bond shall not be retired until one year from the expiration of the license. The applicant shall also sign an appointment naming the Clerk as agent of the applicant for service of process in the event of claim or litigation against such applicant arising out of or in connection with any peddling or solicitation.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the information is found to be factual as stated therein, the required license fee has been paid and the required bond has been posted, a 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 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m. on weekdays and Saturday. No licenses are in effect on Sunday or legal holidays.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.14 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.17 CONSUMER PROTECTION LAW.** All solicitors and peddlers shall be informed of, agree to comply with and comply with the State law, Chapter 555A, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom he or she sells a product or service and comply with the other requirements of the law.

**122.18 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.



3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the North Central 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. Extended Operation. Those merchants who continuously engage in business at a permanent location for a period of more than sixty (60) days.

#### **122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.**

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature shall make application for a license as prescribed herein, also including the name of the organization, names and addresses of officers and directors of the organization, names and addresses of those who will be soliciting, and types of actions to be conducted on behalf of the organization. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue a license to such organization. The fee for a license for such an organization shall be found on the Schedule of Fees maintained in the office of the Clerk.

#### **122.20 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC.**

No person shall, while engaged in any of the practices described in this chapter, block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress to or egress from roads, buildings or other enclosures or conveyances, including, but not limited to, vehicles, elevators and escalators.

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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  
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123.11 Protect Pavement  
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**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 or any method other than upon a properly licensed motor vehicle.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

**123.03 APPLICATION.** Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.
4. Zoning Approval. All requirements of the zoning regulations must have been met along with securing the written approval of the Zoning Administrator with proof of such approval, provided along with the application.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public

property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

**123.06 PERMIT FEE.** A permit fee of twenty-five dollars (\$25.00) 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 flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**123.09 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 twelve (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 (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any

question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 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**

### **JUNK YARDS AND DEALERS**

124.01 Purpose  
124.02 Definitions  
124.03 License Required  
124.04 Council to Approve License  
124.05 Request for License to Include  
124.06 License Fee  
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124.08 Records to Be Kept  
124.09 Receiving Property from Minors  
124.10 Disposing of Articles  
124.11 Inspection of Property and Premises  
124.12 Disposal of Suspicious Property  
124.13 Revocation of License

**124.01 PURPOSE.** It is the purpose of this chapter to regulate the operation or maintenance of junk dealers or yards.

**124.02 DEFINITIONS.** The following words or terms have the meanings set forth below as used in this chapter:

1. "Junk yard" means any property or portion thereof which is used or designated to serve as storage area, either permanently or temporarily, for items of metal, vehicles, vehicle parts, machinery, machinery parts, wood, wood scraps, paper, plastic or other similar items. Salvage yards, scrap yards or other similar operations are also included in this definition.
2. "Junk dealer" means any person who offers for sale, trade, collection or reuse any product which is either an item specifically listed in the definition of "junk yard" or which by its nature is considered an item similar to said items.

**124.03 LICENSE REQUIRED.** No person shall operate as a junk dealer or maintain a junk yard within the City limits without first having secured an appropriate license from the City. A separate license is required for each site and the license is valid for one calendar year with renewal of same required on or before the anniversary of such license.

**124.04 COUNCIL TO APPROVE LICENSE.** The Council shall review every request for a junk dealer or junk yard license. The Council shall give consideration to the proposed or existing location of such a dealership or yard and shall have the authority to either approve the location or prohibit the use of said location as such dealership or yard.

**124.05 REQUEST FOR LICENSE TO INCLUDE.** All requests for a junk yard or dealer license shall include information concerning the proposed

location of such operation, methods to be employed to screen said operation from abutting property owners and public view, machinery to be utilized in the operation, hours of operation, types of materials to be handled, method of storage of said materials, address and phone number of applicant.

**124.06 LICENSE FEE.** The fee for a junk dealer or junk yard license is one hundred dollars (\$100.00) per year.

**124.07 LICENSE GRANTED.** A license may be granted upon Council approval and if it is found that the applicant has met all the requirements of this chapter.

**124.08 RECORDS TO BE KEPT.** Any person operating a junk dealership or yard in the City limits shall keep accurate records concerning the purchasing or receipt of any articles, including, but not limited to the following data:

1. Name of person from whom an item or article is being received;
2. A description of the item or article being received;
3. The amount paid for such item or article;
4. The date and time of said receipt of items or articles;
5. The date and time of the sale, transfer or disposal of such items or articles.

**124.09 RECEIVING PROPERTY FROM MINORS.** No junk dealer or junk yard shall receive or accept property, items or articles from a minor without the written consent of the minor's parent or legal guardian. Such written consent shall be maintained on file for a period of at least one year and shall provide such file to law enforcement officials for inspection upon request.

**124.10 DISPOSING OF ARTICLES.** It is unlawful for any junk dealer or junk yard to dispose of, destroy, sell or transfer any article, item or property for a period of forty-eight (48) hours after receipt of such article, item or property. At no time shall any junk dealer or junk yard attempt to conceal, secrete or destroy any article, item or property received for the purpose of concealing said article, item or property as having been received or in order to alter or prevent the identification of such article, item or property by law enforcement officials or persons making claim to the same.

**124.11 INSPECTION OF PROPERTY AND PREMISES.** No junk dealer or junk yard shall refuse, resist or interfere with the inspection of such dealership or yard by any law enforcement personnel making an examination of



the property or premises occupied by such junk dealer or junk yard for the purpose of discovering or searching for stolen property.

**124.12 DISPOSAL OF SUSPICIOUS PROPERTY.** It is unlawful for any junk dealer or junk yard to sell, melt, cut up, transfer or dispose of or otherwise alter any article, item or property which is suspected to be stolen or which is adversely claimed by any person or which such dealer or yard has been notified by law enforcement officials not to sell or otherwise dispose of or alter.

**124.13 REVOCATION OF LICENSE.** The Council may revoke any junk dealer or junk yard license if it is found that said dealer or yard has not adhered to any requirement as set forth herein, or as provided for in the Code of Iowa. The procedure for such revocation and subsequent action against said licensee shall be as set forth in Sections 122.11 through 122.16 of this Code of Ordinances.

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## **STREETS AND SIDEWALKS**

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices  
135.02 Obstructing or Defacing  
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135.13 Driveway Culverts  
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**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 therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. **Bond Required.** The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$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 one thousand dollars (\$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/property owner.

7. **Inspection.** All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. **Completion by the City.** Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. **Responsibility for Costs.** All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. **Permit Issued.** Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

11. **Notice Required.** The person obtaining said permit shall, immediately after the issuance thereof, give notice to the Superintendent of Public Works and the managers of the telephone, gas, electric and cable television companies, stating where said excavation or ditch is to be made, and when the work thereon will be commenced. It shall be the duty of the said party so notified to point out to said permit holder the exact location of any pipe, conduit, water main, sewer or wire liable to be damaged by reason of the making of said excavation or ditch, and the same shall be made in such manner as not to injure said pipe, conduit, water main, sewer or wire. The person doing said work or having the same done is responsible to the party injured for all damages done to said pipes, conduit, water main, sewer or wire, but no person who has received notice as herein provided and has failed to point out the location of said pipe, conduit, water main, sewer or wire with a reasonable length of time shall be entitled to receive pay for injury thereto, unless said injury is caused by the negligence of the party doing the work.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

**135.14 DUMPSTERS.** No person shall place a dumpster next to the curb in the street unless the dumpster has reflectorized material on all sides which clearly indicates the dimensions of the dumpster. No person shall place a dumpster next to the curb in the street from November 1 to May 1 of each year.



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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 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	136.20 Dumpsters Prohibited

**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 and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a residential property owner does not remove snow, ice or accumulations within forty-eight (48) hours, or a commercial or industrial property owner does not remove snow, ice or accumulations within twenty-four (24) hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

**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 (3) 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 (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length or width.
  - C. Driveway areas shall be not less than six (6) inches in thickness.
6. **Location.** Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. **Grade.** Curb tops shall be on level with the centerline of the street which shall be 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 ( $\frac{1}{2}$ ) inch above the curb for each foot between the curb and the sidewalk.
9. **Slope.** All sidewalks shall slope one-quarter ( $\frac{1}{4}$ ) inch per foot toward the curb.
10. **Finish.** All sidewalks shall be finished with a "broom" or "wood float" finish.
11. **Ramps for Persons with Disabilities.** There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch

of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

*(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 (8) 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 (6) feet of any sidewalk.

**136.15 FIRES OR FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

**136.20 DUMPSTERS PROHIBITED.** It is unlawful for a person to place, or allow to be placed, a dumpster upon any sidewalk for any reason.

## CHAPTER 137

### VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate  
137.02 Planning and Zoning Commission  
137.03 Notice of Vacation Hearing

137.04 Findings Required  
137.05 Disposal of Vacated Streets or Alleys  
137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

*(Code of Iowa, Sec. 364.7)*



**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.

(Code of Iowa, Sec. 364.7[3])

## EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

[illegible]

## STREET GRADES

### 138.02 Record Maintained

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

[illegible]

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## CHAPTER 139

### NAMING OF STREETS

139.01 Naming New Streets  
139.02 Changing Name of Street  
139.03 Recording Street Names

139.04 Official Street Name Map  
139.05 Revision of Street Name Map

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Manly, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following

changes were made in the Official Street Name Map: (brief description),”  
which entry shall be signed by the Mayor and attested by the Clerk.

## CHAPTER 140

### CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power  
140.02 Definition  
140.03 Right of Access Limited

140.04 Access Controls Imposed  
140.05 Unlawful Use of Controlled Access Facility  
140.06 Permitted Access Points

**140.01 EXERCISE OF POLICE POWER.** This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

*(Code of Iowa, Sec. 306A.1)*

**140.02 DEFINITION.** The term "controlled access facility" means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

*(Code of Iowa, Sec. 306A.2)*

**140.03 RIGHT OF ACCESS LIMITED.** No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

*(Code of Iowa, Sec. 306A.4)*

**140.04 ACCESS CONTROLS IMPOSED.** There are hereby fixed and established controlled access facilities within the City, described as follows:

*(Code of Iowa, Sec. 306A.3)*

1. Project No. P-555. On the Primary Road System extension improvement, Project No. P-555, Primary Road No. U.S. 65, within the City limits, described as follows:

From Station 2313+47.6 to Station 2321+06.3

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. P-555 on file in the office of the Clerk.

2. Project No. F-1047. On the Primary Road System extension improvement, Project No. F-1047(1), Primary Road No. U.S. 65, within the City limits, described as follows:

From Station 2321+06.3 equals Station 3321+06.3 to Station 3344+11.2; from Station 3344+11.2 equals Station 2367+93.2 to Station 2375+89.3; from Station 2375+89.3 right to Station 2402+38.2 right.

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-1047 on file in the office of the Clerk.

Also, the Council agrees to extend access control to the parts of Primary Road U.S. 65 as may be included within any future extension of the corporate limits of the City.

**140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY.** It is unlawful for any person to:

*(Code of Iowa, Sec. 306A.3 and 321.366)*

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

**140.06 PERMITTED ACCESS POINTS.** Points of access are hereby permitted as follows:

*(Code of Iowa, Sec. 306A.4)*

1. Project No. P-555. The following points of ingress or egress to or from abutting lands onto or across Project No. P-555, Primary Road No. U.S. 65, being in existence are hereby authorized and classified as follows:

STATION	TYPE	SIDE
2314+01	Commercial	East
2315+81	Commercial	East
2317+60	Commercial	East
2319+22	Commercial	East
to 2321+06.6	(presently not in use)	
2319+59	Commercial	West
to 2321+06.6	(serving service station and cafe)	

2. Project No. F-1047. The following points of ingress or egress to or from abutting lands onto or across Project No. F-1047, Primary Road No. U.S. 65, being in existence are hereby authorized and classified as follows:

STATION	TYPE	SIDE
2321+06.6	Commercial	East
to 2321+31	(presently not in use)	
2321+06.6	Commercial	West
to 2321+92	(serving service station and cafe)	
2323+03	Commercial	East
3329+84	Commercial	West
3330+47	Commercial	West
3332+34	Joint Commercial	West
to 3334+15	(service station)	
2376+04	Commercial	East
2389+38	Residential	East
2398+55	Agricultural	East



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STATION	TYPE	SIDE
2314+01	Commercial	East
2315+81	Commercial	East
2317+60	Commercial	East
2319+22	Commercial	East
to 2321+06.6	(presently not in use)	
2319+59	Commercial	West
to 2321+06.6	(serving service station and cafe)	

2. Project No. F-1047. The following points of ingress or egress to or from abutting lands onto or across Project No. F-1047, Primary Road No. U.S. 65, being in existence are hereby authorized and classified as follows:

STATION	TYPE	SIDE
2321+06.6	Commercial	East
to 2321+31	(presently not in use)	
2321+06.6	Commercial	West
to 2321+92	(serving service station and cafe)	
2323+03	Commercial	East
3329+84	Commercial	West
3330+47	Commercial	West
3332+34	Joint Commercial	West
to 3334+15	(service station)	
2376+04	Commercial	East
2389+38	Residential	East
2398+55	Agricultural	East

3. Project No. F-1047(3). The following points of ingress or egress to or from abutting lands onto or across Project No. F-1047(3), Primary Road No. U.S. 65, being in existence are hereby authorized and classified as follows:

FROM STATION	TO STATION	SIDE
2330+00	2378+53	Both
2378+53	2575+61	Both
2575+61	2590+78	Both
2321+70	2325+12	West

(Ord. 2005-06 – Jul. 05 Supp.)

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## CHAPTER 141

### DRIVEWAY REGULATIONS

141.01 Definitions

141.02 Permit Required

141.03 Width and Number of Curb Openings

141.04 Location of Driveway

141.05 Method of Removing Curb

141.06 Sidewalks

141.07 Driveways to Be Paved

141.08 Inspection and Approval

141.09 Existing Driveways Altered

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

1. "Driveway" means that part of any approach for motor vehicles to private property that lies between the property line and roadway of the public street.
2. "Paving" includes any kind of hard surfacing including, but not limited to, Portland cement concrete, bituminous concrete, brick, stabilized gravel, or combinations of such materials with the necessary base. "Paving" does not include surfacing with oil, gravel, oil and gravel, or chloride.

**141.02 PERMIT REQUIRED.** No person shall remove, reconstruct or install a driveway 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. Upon final completion, the Public Works Director shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter the specifications or when any driveway improvements are made without a permit, the Public Works Director shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the driveway is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the driveway work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Public Works Director shall have the work completed and the costs assessed to the property owner as provided in this chapter.

**141.03 WIDTH AND NUMBER OF CURB OPENINGS.** The curb opening for a single drive shall not be less than sixteen (16) feet or more than twenty (20) feet and the opening for a double drive shall not exceed twenty-four (24) feet in width. In general, only one (1) opening shall be granted per

residence in residential areas. The Council may grant additional openings in special cases such as for larger corner lots, etc. The width and number of curb openings for business and commercial places shall be determined as to the needs by the Council. Any opening onto a State-owned road will have to be approved by the State Department of Transportation and the Council.

**141.04 LOCATION OF DRIVEWAY.** Where possible, no driveway shall be placed nearer than five (5) feet to the sidelines of owner's property. No driveway shall be within fifteen (15) feet of any intersection at the property line.

**141.05 METHOD OF REMOVING CURB.** Curb shall be removed by grinding with a machine specifically designed for that purpose. The finished surface shall be smooth and free from chips or grinding marks. The finished surface shall be uniformly sloped up from the existing gutter line to back of curb. At back of curb the ground surface (lip) shall be one and one-half (1½) inches above the gutter line. Curb transitions at either end of the driveway opening shall be uniform and tapered over a distance of twelve (12) inches.

**141.06 SIDEWALKS.** The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk.

**141.07 DRIVEWAYS TO BE PAVED.** All driveways shall be paved from the street (back of curb or edge of pavement) with one of the following types of surface. Six (6) inch thick plain Portland cement concrete, five (5) inch thick mesh reinforced (6 x 6 opening, #9 welded wire mesh) Portland cement concrete or six (6) inch thick crushed stone base with three (3) inch thick hot mix asphalt surface. Portland cement concrete shall be IDOT "C" mix. Hot mix asphalt shall be IDOT type "A" or "B" mix. Where Portland cement concrete is used, one-half (½) inch thick pre-formed expansion material must be placed against the full face of abutting concrete curb or pavement.

**141.08 INSPECTION AND APPROVAL.** The driveway must be inspected and approved by the City within thirty (30) days after completion of the work. The City shall keep a record of such approvals. If the work is not approved, it must be corrected immediately so it will meet with the City's approval. If the work has been done improperly, the City shall have the right to finish or correct the work and the Council shall assess the cost to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

**141.09 EXISTING DRIVEWAYS ALTERED.** Existing driveways being altered or modified which require removal of curbing must conform to all driveway regulations.

*(Ch. 141 – Ord. 2006-05 – Jun. 06 Supp.)*

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# **BUILDING AND PROPERTY REGULATIONS**

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## CHAPTER 145

### DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
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 (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. **Notice Served.** Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. **Hearing.** Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. **Notice.** The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF MANLY, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes, which does not preclude or limit the authority of the City from seeking alternative relief which may include, but is not limited to, an order for abatement or injunctive relief or seeking reimbursement for costs by a civil action for damages against an individual or property owner and 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.

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

**EDITOR'S NOTE**

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

## CHAPTER 146

# MANUFACTURED, MOBILE AND MODULAR HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Mobile Home Park Regulations

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

*(Code of Iowa, Sec. 435.1)*

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
3. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes, manufactured homes, or modular homes, or a combination of any such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. The term "mobile home park" is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The mobile home park shall meet the requirements of any zoning regulations that are in effect.
4. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home, modular home or manufactured home which is located outside a mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

*(Code of Iowa, Sec. 435.26 & Sec. 435.35)*

1. Dealer's Stock. Mobile, modular or manufactured homes on private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home, manufactured home or modular home which is located outside of a mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 MOBILE HOME PARK REGULATIONS.** Every mobile home park shall comply with the following requirements:

1. Park Area Occupancy. The buildings, cabins and mobile homes in any mobile home park, together with any non-accessory buildings already on the lot, shall not occupy in the aggregate more than thirty percent (30%) of the area of the lot.
2. Enlargement Permit. Any enlargement or extension to an existing mobile home park shall require application for a zoning permit, and its approval, as if it were a new establishment. No permit shall be granted unless the existing facility is made to conform substantially with all the requirements for new construction for such an establishment.
3. Prohibition. Except as provided in Section 146.02, no person shall park or occupy any mobile home on any premises in any district outside an approved mobile home park. The parking of an unoccupied trailer in an accessory building or in a yard other than the front yard shall be permitted in districts according to that district's requirements, provided no living quarters shall be maintained or any business conducted in such trailer while so parked or stored.
4. Emergency Parking. Emergency or temporary stopping or parking of a mobile home shall be permitted on any street, alley or highway for not longer than twenty-four (24) hours, subject to any other restrictions in this Code of Ordinances or by law, which regulate or limit traffic and parking on streets, alleys or highways.
5. Mobile Home Park Plan. An application for the establishment of a mobile home park shall be filed with the City and must be

accompanied by a plat, drawn to scale and certified by a registered land surveyor, civil engineer or architect. Such drawings shall contain that information which might be necessary and required by the City for the review process, including the following:

A. Lots. A complete layout of the mobile home park showing all lots and the number of square feet therein, together with the dimensions thereof.

B. Dimensions. Accurate dimensions and legal description of the proposed mobile home park boundary area.

C. Streets. All public streets and approaches and the access thereto, providing that each mobile home lot shall have direct access thereto. The minimum road width of interior park streets, curb to curb, shall be as follows for private streets:

- |     |                                       |         |
|-----|---------------------------------------|---------|
| (1) | One-way street, parking both sides    | 24 feet |
| (2) | Two-way street, no parking on street  | 24 feet |
| (3) | Two-way street, parking one side      | 27 feet |
| (4) | Two-way street, parking on both sides | 34 feet |

Such streets shall be paved with either asphalt or concrete, and the curbing and gutter must be paved with concrete, according to City specifications for residential streets, and shall be maintained in good condition and lighted at night. All streets which will be dedicated or transferred to the City shall be constructed and maintained to those standards and specifications adopted by the City.

D. Utilities and Structures. The location of all electrical, gas, water, sanitary sewer, storm sewer provisions, lighting, washrooms, garbage and trash disposal and other buildings or structures contemplated to be used by such applicant in connection with such mobile home park or site thereof, shall be subject to the jurisdiction of the City.

6. Anchoring. All mobile homes shall be anchored to the ground by anchor bolts of standard acceptance to the City.

7. Skirting Required. The area from the bottom of the mobile home to the ground shall be enclosed by skirts or framing in such manner that no areas are left open or exposed beneath the mobile home at any given time.

8. **Parking.** All areas used for automobile access and parking shall comply with the applicable provisions of this chapter, provided that there shall be at least two (2) off-street parking spaces for each mobile home lot, said spaced to be constructed of asphalt or concrete, with dimensions of twenty-four (24) feet by twenty-six (26) feet.
9. **Landscaping and Buffering Required.** The mobile home park shall be buffered from adjoining property through either (a) the construction of at least a six-foot high wooden privacy type fence, constructed and maintained so as to provide a complete and impenetrable barrier, or (b) use of landscaping materials so as to create a year-round screen or buffer from adjoining properties. Such a living screen shall utilize a variety of materials in order to provide an impenetrable screen during all seasons. Also, interior lots or buildings or facilities which are not utilized or which create an eyesore shall be buffered by the installation and maintenance of landscaping materials. Again, a variety of materials should be used in order to provide the necessary seasonal buffering.
10. **Mobile Home Park Area and Yard Requirements.** Mobile home parks shall be designed and maintained in accordance with the following requirements:
  - A. **Park Area.** Mobile home park area shall be a minimum of four (4) acres.
  - B. **Front Yard.** On any street upon which the park abuts, all structures shall have a minimum setback of twenty-five (25) feet from the curb line, or the required front yard setback of the district in which the park is located or abuts along the street, whichever is greater.
  - C. **Side Yard.** Side yards shall extend fifteen (15) feet from the lot line.
11. **Minimum Requirements for Individual Mobile Home Lots.** The following requirements shall be the minimum for individual mobile home lots:
  - A. **Area.** Minimum area shall be five thousand (5,000) square feet.
  - B. **Lot Width.** Minimum lot width shall be fifty (50) feet or in the case of irregular lots, thirty-five (35) feet.
  - C. **Front Yard.** Front yards shall extend fifteen (15) feet from curb or property line.



D. Rear Yard. Rear yards shall extend ten (10) feet from lot line.

E. Side Yard. A minimum of five (5) feet shall be on each side, with a minimum of twenty (20) feet between any two mobile homes.

F. Fences, Walls and Hedges. Construction of such devices shall conform and are subject to residential requirements for the same, as enforced in the Zoning Code of the City.

G. Minimum Home Width. Mobile homes must be at least ten (10) feet wide.

12. Recreation Areas. There shall be provided within each mobile home park an adequate site or sites for recreational use by residents. The minimum area to be provided for such an area shall consist of one hundred (100) square feet for each mobile home in the park. The sites shall be of appropriate design and provided with appropriate equipment. Recreation areas shall be so located as to be free from traffic hazards and should, where topography permits, be centrally located. Such sites shall not be located on land which has a grade in excess of six percent (6%) rise.

13. Length of Occupancy. No mobile home shall remain in a mobile home park for a period exceeding fifteen (15) days without connection to the permanent sanitary sewer system of the park.

14. Additional Requirements. In addition to the conditions, requirements or limitations as set forth herein concerning the development and operation of such mobile home parks, there may be imposed such conditions, requirements or limitations as are deemed necessary for the protection and welfare of adjacent properties and public interest.

15. Commission Review Required. The Planning and Zoning Commission shall first review and make such recommendations, in accordance with the provisions of this Code of Ordinances, as they deem fit to the Council in regard to the approval of such a mobile home park development.

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## **CHAPTER 147**

# **WATER WELL PROTECTION**

### **147.01 Definitions**

### **147.02 Distance Required from Shallow Wells**

### **147.03 Distance Required From Deep Public Wells**

### **147.04 Applicability**

### **147.05 Nonconformance**

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

1. "Deep public well" means a public well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five (5) feet thick located at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water supply is drawn.
2. "Shallow public well" means a public well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least five (5) feet thick located at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water supply is drawn.

**147.02 DISTANCE REQUIRED FROM SHALLOW WELLS.** No structure or facility designated in this section shall be located within the distance set forth from a shallow public well:

1. Well house floor drains to ground surface — 5 feet;
2. Water treatment plant wastes to ground surface — 50 feet;
3. Sanitary and industrial discharges to ground surface — 200 feet;
4. Floor drains from pump house to surface:
  - A. None within 5 feet;
  - B. 5 to 10 feet — water main materials enclosed in concrete permitted;
  - C. 10 to 25 feet — must be water main material;
  - D. 25 to 75 feet — must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
  - A. None permitted within 25 feet;

- B. 25 to 75 feet, must be water main material;
- C. 75 to 200 feet, must be watertight sewer pipe;
- 6. Sewer force mains:
  - A. None permitted within 75 feet;
  - B. 75 to 200 feet, must be water main materials;
- 7. Land application of solid waste — 200 feet;
- 8. Irrigation of wastewater — 200 feet;
- 9. Concrete vaults and septic tanks — 200 feet;
- 10. Mechanical wastewater treatment plants — 200 feet;
- 11. Cesspools and earth pit privies — 200 feet;
- 12. Soil absorption fields — 200 feet;
- 13. Lagoons — 200 feet;
- 14. Chemicals:
  - A. Application to ground surface — 200 feet;
  - B. Above ground storage — 200 feet;
  - C. On or underground chemical or mineral storage — 200 feet;
- 15. Animal pasturage — 50 feet;
- 16. Animal enclosure — 200 feet;
- 17. Animal wastes:
  - A. Land application of solids — 200 feet;
  - B. Land application of liquid or slurry — 200 feet;
  - C. Storage tank — 200 feet;
  - D. Solids stockpile — 200 feet;
  - E. Storage basin or lagoon — 200 feet;
- 18. Earthen silage storage trench or pit — 200 feet;
- 19. Basements, pits, sumps — 10 feet;
- 20. Flowing streams or other surface water bodies — 50 feet;
- 21. Cisterns — 100 feet;
- 22. Cemeteries — 200 feet;
- 23. Private wells — 200 feet;

24. Solid waste disposal sites — 200 feet.

**147.03 DISTANCE REQUIRED FROM DEEP PUBLIC WELLS.** No structure or facility designated in this section shall be located within the distances set forth from a deep public well:

1. Well house floor drains to ground surface — 5 feet;
2. Water treatment plant wastes to ground surface — 50 feet;
3. Sanitary and industrial discharges to ground surface — 200 feet;
4. Floor drains from pump house to surface:
  - A. None within 5 feet;
  - B. 5 to 10 feet — water main materials enclosed in concrete permitted;
  - C. 10 to 25 feet — must be water main material;
  - D. 25 to 75 feet — must be watertight sewer pipe;

**147.04 APPLICABILITY.** Prescriptions set forth in Sections 147.02 and 147.03 apply to all public water wells existing within the City, except public water wells formerly abandoned for use by resolution of the Council.

**147.05 NONCONFORMANCE.** The use of structures or facilities existing at the time of enactment of the ordinance codified in this chapter may be continued, even though such use may not conform with the regulations of this chapter. However, such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to such effective date.

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## CHAPTER 150

### BUILDING NUMBERING

#### 150.01 Definitions

#### 150.02 Owner Requirements

#### 150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

**150.03 BUILDING NUMBERING MAP.** The Clerk and Zoning Administrator shall be responsible for preparing and maintaining a building numbering map and for assigning building numbers. The Clerk and/or Zoning Administrator shall also have the power to change existing building numbers.

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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 ten (10) feet from the property line.
2. **Spacing.** Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (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, black walnut, locust or other thorn bearing trees.

**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 fifteen (15) feet above the surface of the street and eight (8) 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 (5) days. If such action is not taken within

that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 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 which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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## **CHAPTER 155**

### **BILLBOARDS**

**155.01 Purpose**  
**155.02 Permit Required**  
**155.03 Permit Application**  
**155.04 Permit Fee**  
**155.05 Commission Review**

**155.06 Permit Issued**  
**155.07 Setbacks Required**  
**155.08 Signs Exempt**  
**155.09 Bond Required**

**155.01 PURPOSE.** The purpose of this chapter is to provide regulations for the orderly erection and continued maintenance of billboards within the City limits. A billboard is defined, for use in this chapter, as any sign, whether free standing or attached to a permanent or temporary structure, which is greater than one hundred (100) square feet in size.

**155.02 PERMIT REQUIRED.** It is unlawful to construct or maintain, or cause to be constructed, any billboard without having first obtained a permit from the City. Billboard permits are required for each individual billboard on an annual basis with payment due on or before July 1 of each year. For billboards constructed after that deadline, the amount of the permit fee shall be pro rated from the previous July 1.

**155.03 PERMIT APPLICATION.** The following information shall be provided to the City for the review of the permit application:

1. Name of the person who owns a billboard. Also, such name shall be maintained on the billboard in clear and easily read print.
2. Address and phone number of such billboard owner.
3. Description of the proposed or existing location of the billboard, size of billboard and type of materials used in construction.
4. Detailed plat of the property on which the billboard will be located, indicating dimensions of said property, location of all easements or physical improvements, location and names of all abutting roadways, proposed location of the billboard, setbacks to be maintained from all property lines, as well as any other information as requested by the City.

**155.04 PERMIT FEE.** The fee for a billboard permit is five cents (\$.05) per square foot.

**155.05 COMMISSION REVIEW.** All applications for a billboard permit shall first be reviewed by the Planning and Zoning Commission with a

recommendation made by said Commission concerning the approval or denial of the permit, which shall be submitted to the Council along with the permit application by no later than thirty (30) days after receiving the same.

**155.06 PERMIT ISSUED.** A billboard permit may be issued by a majority vote of the Council if it is found that the application fulfills the obligations as established within this chapter or the Code of Iowa and the appropriate fee has been paid.

**155.07 SETBACKS REQUIRED.** No billboard shall be constructed in a manner which would:

1. Obstruct the view of or at a railroad crossing or street crossing.
2. Pose a danger to the public due to falling or being blown down.
3. Obstruct the free use of the streets, alleys or sidewalks.
4. Increase the danger of fire loss or increase fire insurance rates.
5. Be constructed within six (6) feet of any building or side lot line, or nearer than two (2) feet of any other billboard.

**155.08 SIGNS EXEMPT.** This chapter shall not apply to real estate signs advertising the sale or leasing of property if such sign is on the property so offered and such sign is no greater than thirty-six (36) square feet in size.

**155.09 BOND REQUIRED.** A surety bond shall be filed with the City for the amount of five hundred dollars (\$500.00) by any person involved in the erection or construction of a billboard within the City. The conditions of said bond shall be to hold the City harmless in the event that any damages, loss, expense or decrees may be secured against the City as may result from the construction or maintenance of any billboard.

## CHAPTER 156

# COMMUNICATIONS TOWERS AND ANTENNAS

156.01 Purpose and General Policy	156.09 Noise and Emission Standards
156.02 Definitions	156.10 Placement of Facilities and Related Lease Fees
156.03 Local Regulation and Compliance with the Telecommunications Act of 1996	156.11 Abandonment
156.04 Lease Required	156.12 Termination
156.05 Fee Required	156.13 Home Rule
156.06 Limit on Term	156.14 New Technologies
156.07 Priorities and Placement Requirements	156.15 Federal Preemption
156.08 Application Process	156.16 Emergency Situations

**156.01 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.

**156.02 DEFINITIONS.** For use in this chapter the following terms 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 communications 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.

**156.03 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 communications towers and antennas.

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 minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.
4. To assure revenues from site leases of City-owned and -controlled land and structures reflects fair compensation for use of City property and administration of this chapter.

**156.04 LEASE REQUIRED.** No person or other entity shall use any public property without first obtaining a lease from the City.

**156.05 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.

**156.06 LIMIT ON TERM.** A lease for the use of public property shall be granted for a term as negotiated by the City and/or its agent.

**156.07 PRIORITIES AND PLACEMENT REQUIREMENTS.**

1. Priority. 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:

- A. All functions of the City.
- B. 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.
- C. Other governmental agencies for uses which are not related to public safety.
- D. 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 and/or personal use.

2. Placement. The placement of communications antennas or towers on City-owned property must comply with the following requirements:

A. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.

B. The antenna or tower will have no adverse impact on surrounding private property.

C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City 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 by the Council (Section 156.10) and shall reflect potential expenses and risks to the City and other appropriate factors.

D. 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.

E. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.

F. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.

G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antenna or tower.

H. The user must obtain all necessary land use approval.

I. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate antenna sites requested.

#### **156.08 APPLICATION PROCESS.**

1. 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, as established by the Council, and the following documents, if applicable:

- A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
- B. 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. A site plan is not required if the antenna is to be mounted on an approved existing structure.
- C. 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.
- D. 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.
- E. Identification of the owners of all antennas and equipment to be located on the site.
- F. Written authorization from the site owner for the application.
- G. Evidence that a valid FCC license for the proposed activity has been issued.
- H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
- I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
- J. Additional information, as required, to determine that all applicable zoning regulations are met.
- K. Any communications 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 set back requirement shall not apply to (1) 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 (2) 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.

2. Applicant must also show evidence that all of the following conditions which are applicable are met:

A. 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.

B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations an applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.

C. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.

D. 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.

E. 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 (1) made diligent but unsuccessful efforts for a minimum of forty (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 (2) 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.

F. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.

G. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

H. 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 a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

I. 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 municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the City Attorney.

J. Land use regulations, visibility, fencing, screening, landscaping, parking access, lot size, exterior illumination, sign, storage, and all 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:

Residential Districts - Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.

Commercial Districts - Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.

Industrial Districts - Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.

Other Districts - Free-standing or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.

K. 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% 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 120 days after all application materials are received.

#### **156.09 NOISE AND EMISSION STANDARDS.**

1. Noise. 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 back-up generator, where the noise standards may be exceeded temporarily.

2. Emissions. 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.

#### **156.10 PLACEMENT OF FACILITIES AND RELATED LEASE FEES.**

The placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met.

1. Water Tower or Reservoir Sites. The City's water tower and reservoir represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or

antennas on water towers or reservoir sites will be allowed only when the following requirements are met:

- A. The applicant must have written approval from the public works director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.
- B. There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.
- C. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City.
- D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower or reservoir.

A fee, as negotiated by the City and/or its agent, will be assessed for placing facilities on a City water tower.

2. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the Park Board and approval of the Council.

- A. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.
- B. Commercial recreational areas and major ball fields.
- C. Park maintenance facilities.

A fee, as negotiated by the City and/or its agent, will be assessed for placing facilities on park property.

**156.11 ABANDONMENT.** In the event the use of any communications 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 and/or affidavits from the communications tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (1) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (2) 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 and/or variance approval for the tower shall automatically expire.

**156.12 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.

**156.13 HOME RULE.** This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th 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.

**156.14 NEW TECHNOLOGIES.** Should, within the term of any lease, 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.

**156.15 FEDERAL PREEMPTION.** No portion of this Chapter, or any zoning regulation except as for health or safety reasons, shall be construed to prohibit the construction or installation of a communications antenna structure on private property by:

1. A federally licensed amateur radio operator;

2. A business or individual installing a television antenna or satellite dish for television reception on private property; or

3. Any other communication business activity, the regulation of which is then specifically preempted by the Federal Communication Commission. All related ordinances shall be construed in such a way as to fully accommodate such activities in accordance with any such preemption.

Specifically, Sections 156.03, 156.08 and 156.11 of this Chapter shall not apply to preceding subsections 1 and 2.

**156.16 EMERGENCY SITUATIONS.** In the event of an emergency or special circumstances, any and all provisions of this chapter may be waived temporarily by the Mayor, or in his absence the Mayor Pro Tem, for short term installations of less than thirty (30) days. The Council shall be advised of any such waiver within thirty (30) days of the waiver.

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CODE OF ORDINANCES

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NUMBER

.....



## **APPENDIX TO CODE OF ORDINANCES**

### **USE AND MAINTENANCE OF THE CODE OF ORDINANCES**

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

#### **DISTRIBUTION OF COPIES**

1. **OFFICIAL COPY.** The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library and perhaps the schools and news media.

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 was 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 APPENDIX 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 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 follows:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_, IOWA, 19\_\_, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE 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, 19\_\_ is amended by adding a new Section in Chapter 69, numbered 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

**69.16 PARKING LIMITED TO THIRTY MINUTES.** It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

**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 \_\_\_\_\_, 19\_\_, and approved  
this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_  
day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
City Clerk

**DELETION OF EXISTING PROVISIONS**

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_, IOWA, 19\_\_, BY REPEALING CHAPTER 65, SECTION 02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD**

**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, 19\_\_, is hereby amended by repealing Chapter 65, Section 02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

**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 \_\_\_\_\_, 19\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
City Clerk

**MODIFICATION OR CHANGE OF EXISTING PROVISION**

Existing provisions may be added to, partially deleted or changed as follows:

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF  
ORDINANCES OF THE CITY OF \_\_\_\_\_,  
IOWA, 19\_\_, BY AMENDING PROVISIONS PERTAINING  
TO SEWER RENTAL RATES**

**BE IT ENACTED** by the City Council of the City of \_\_\_\_\_, Iowa:

**SECTION 1. SECTION MODIFIED.** Chapter 99, Section 02, of the Code of Ordinances of the City of \_\_\_\_\_, Iowa, 19\_\_, is repealed and the following adopted in lieu thereof:

**99.02 RENTAL RATE.** Each customer shall pay a sewer rental in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars (\$10.00) per month.

**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 \_\_\_\_\_, 19\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
City Clerk

**ORDINANCES NOT CONTAINED IN THE CODE OF  
ORDINANCES**

There are certain types of ordinances which the City will be adopting which may be, but do not have to be, incorporated in the Code of Ordinances. These ordinances include ordinances (1) establishing grades of streets or sidewalks, (2) vacating streets or alleys, (3) authorizing the issuance of bonds and (4) zoning ordinances.

*(Code of Iowa, Sec. 380.8)*

If such ordinances are to be included in the Code of Ordinances, the foregoing suggested form of ordinance amending the Code of Ordinances is appropriate; however, if such ordinances are not to be included in the Code of Ordinances, we suggest the following form of ordinance be used.

**ORDINANCE NO. \_\_\_\_****AN ORDINANCE VACATING THE ALLEY LYING IN  
BLOCK TWO (2) RAILROAD ADDITION TO  
\_\_\_\_\_, IOWA**

Be It Enacted by the City Council of the City of \_\_\_\_\_, Iowa:

**SECTION 1.** The alley lying in Block Two (2), Railroad Addition 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 \_\_\_\_\_, 19\_\_, and  
approved this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_  
day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
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 FORM**  
**DANGEROUS BUILDINGS**

**FIRST NOTICE**

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 and does not preclude or limit the authority of the City from seeking alternative relief which may include, but is not limited to, an order for abatement or injunctive relief or seeking reimbursement for costs by a civil action for damages against an individual or property owner and 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.

Date of Notice: \_\_\_\_\_

City of \_\_\_\_\_, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**SUGGESTED FORM**

**DANGEROUS BUILDINGS**

**NOTICE OF HEARING**

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 \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_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 (145) 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)

**SUGGESTED FORM**  
**DANGEROUS BUILDINGS**  
**RESOLUTION AND ORDER**

**BE IT RESOLVED**, by the City Council of the City of \_\_\_\_\_, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ 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 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 his 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 him; and

**BE IT FURTHER RESOLVED** that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above; and

**BE IT FURTHER RESOLVED** that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address),

as the law shall provide and does not preclude or limit the authority of the City from seeking alternative relief which may include, but is not limited to, an order for abatement or injunctive relief or seeking reimbursement for costs by a civil action for damages against an individual or property owner and 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.

Moved by \_\_\_\_\_ to adopt.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
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.

## SUGGESTED FORM

## 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 and does not preclude or limit the authority of the City from seeking alternative relief which may include, but is not limited to, an order for abatement or injunctive relief or seeking reimbursement for costs by a civil action for damages against an individual or property owner and 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.

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 \_\_\_\_\_, 19\_\_, at \_\_\_\_\_ o'clock \_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 \_\_\_\_\_, 19\_\_, 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 his 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 him; 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, \_\_\_\_\_, fails to make such

(Name of Owner or Agent)

connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

\_\_\_\_\_  
(Owner's Name)

\_\_\_\_\_, as provided by law.

(Address)

Moved by \_\_\_\_\_ to adopt.

Seconded by \_\_\_\_\_.

AYES: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

NAYS: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

Resolution approved this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk