

# 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 Extension of Authority

1.08 Amendments  
1.09 Catchlines and Notes  
1.10 Altering Code  
1.11 Severability  
1.12 Warrants  
1.13 General Standards for Action  
1.14 Standard Penalty

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

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Walker, Iowa.
3. “Clerk” means the city clerk of Walker, 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 Walker, Iowa.
6. “Council” means the city council of Walker, Iowa.
7. “County” means Linn County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Walker, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. "Shall" imposes a duty.
16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. "State" means the State of Iowa.
18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

**1.03 CITY POWERS.** The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City and of its residents, and 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 this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the Code of Iowa shall be utilized to ascertain the intent of the Council with the understanding that the term “statute” as used therein will be deemed to be synonymous with the term “ordinance” when applied to this Code of Ordinances.

**1.07 EXTENSION OF AUTHORITY.** Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances,

the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

**1.08 AMENDMENTS.** All ordinances 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)*

**1.09 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.

**1.10 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.

**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.

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

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

the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least one hundred five dollars (\$105.00) but not to exceed eight hundred fifty five (\$855.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

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

*(Section 1.14 – Ord. 354 – Oct. 21 Supp.)*

[The next page is 9]

## 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 Walker, Iowa.<sup>†</sup>

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 160 adopting a charter for the City was passed and approved by the Council on February 10, 1975.

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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 \$750.00
  - B. Each Repeat Offense – Not to exceed \$1,000.00

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

2. Special Civil Penalties.
  - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than \$1,000.00 for each day a violation exists or continues.
  - B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than \$1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
    - (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
    - (2) The City is notified of the violation within 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. A copy of the citation may be served by personal service as provided in Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 1.310 and subject to the conditions of Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and the original citation shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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

1. The name and address of the defendant.

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

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

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

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

[The next page is 21]

**CHAPTER 5**  
**OPERATING PROCEDURES**

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

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

**5.01 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 Walker as now or hereafter required by law."

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

2. Bonds Approved. Bonds shall be approved by the Council.  
*(Code of Iowa, Sec. 64.19)*
3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.  
*(Code of Iowa, Sec. 64.23[6])*
4. Record. The Clerk shall keep a book, to be known as the “Record of Official Bonds” in which shall be recorded the official bonds of all City officers, elective or appointive.  
*(Code of Iowa, Sec. 64.24[3])*

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

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

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

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

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

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

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.  
*(Code of Iowa, Sec. 21.4)*
2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.  
*(Code of Iowa, Sec. 21.3)*
3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and

information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the

procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

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

5. Newspaper. The designation of an official newspaper.

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

6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (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[3i])*

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of six thousand dollars (\$6,000.00) in a fiscal year.

*(Ord. 360 – Oct. 21 Supp.)*

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

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[3l])*

12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser or obligee of the contract.

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



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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

1. Appointment. By appointment following public notice by the remaining members of the Council 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)*

[The next page is 29]

**CHAPTER 6**  
**CITY ELECTIONS**

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

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

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

*(Code of Iowa, Sec. 376.3)*

**6.02 NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 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.** Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the Code of Iowa, and shall be signed in accordance with the Code of Iowa.

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

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

*(Code of Iowa, Sec. 45.4)*

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

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

[The next page is 35]

## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

1. **Deposit of Funds.** All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
2. **Deposits and Investments.** All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the Code of Iowa.

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

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

1. **Revenues.** All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. **Expenditures.** No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.

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

*(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 finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance

officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council 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 on the budget before the final certification date and shall publish 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])*

*(Subsection 5 – Ord. 361 – Oct. 21 Supp.)*

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 City Clerk and have a copy posted at one of the places designated for the posting of notices.

*(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 no later than March 31. 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.

*(Ord. 361 – Oct. 21 Supp.)*

*(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 the Clerk and Mayor following Council approval, except as provided by Subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts



due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.

6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

*(Code of Iowa, Sec. 384.22)*

[The next page is 71]

## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting  
15.06 Additional Duties

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

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

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

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

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

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

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

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

4. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within 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

**15.04 COMPENSATION.** The salary of the Mayor is \$300.00 per month. †  
(*Code of Iowa, Sec. 372.13[8]*)  
(*Ord. 348 – Jun. 21 Supp.*)

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

**15.06 ADDITIONAL DUTIES.** The Council may request that the Mayor perform duties and provide services to the City beyond and outside the scope of the official duties required of the official office of Mayor provided that:

1. The Council makes reasonable efforts to contract with or employ someone other than the Mayor to perform the desired duties.
2. The Council makes a specific finding that there is no qualified person reasonably available to perform the duties. Such finding must be made prior to extending the scope of the Mayor's duties for any additional pay.

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† **EDITOR'S NOTE:** Effective January 1, 2022. Adopted by Ordinance 348 on March 8, 2021.

3. Compensation is reasonable.
4. The added duties will terminate immediately upon the contracting or employment of someone other than the Mayor to perform the duties.
5. Extra duties performed before Council action shall not be compensated unless the Council finds that an emergency existed preventing the Council from considering the requirements of this section, and only when the Council makes a specific finding that an emergency situation existed.
6. In the event it is necessary to invoke this section, the City Council will consider whether the extra duties create a conflict of interest for the Mayor and take reasonable precautions to avoid any conflict of interest. In the event a conflict of interest cannot be avoided, the Council must make reasonable efforts to diminish such conflict.

Any extended duties subject to this section shall be temporary and intended only to address extraordinary circumstances.

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## CHAPTER 16

### MAYOR PRO TEM

16.01 Vice President of Council  
16.02 Powers and Duties

16.03 Voting Rights  
16.04 Compensation

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

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

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

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

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

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

**16.04 COMPENSATION.** If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of 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  
17.07 Extended Duties

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

*(Code of Iowa, Sec. 372.4 & 376.2)*

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

*(Code of Iowa, Sec. 380.4)*

2. Overriding Mayor's Veto. Within 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 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

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

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

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

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

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

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

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

**17.06 COMPENSATION.** The salary of each Council member is twelve dollars (\$12.00) for each meeting of the Council attended. Effective January 1, 2016, the salary of each Council member is twenty five dollars (\$25.00) for each meeting attended. *(Ord. 318 – Mar. 15 Supp.)*

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

**17.07 EXTENDED DUTIES.** The Council may request that a Council member perform duties and provide services to the City beyond and outside the scope of the official duties required of the official office of Council member provided that:

1. The Council makes reasonable efforts to contract with or employ someone other than the Council member to perform the desired duties.
2. The Council makes a specific finding that there is no qualified person reasonably available to perform the duties. Such finding must be made prior to extending the scope of the Council member's duties for any additional pay.
3. Compensation is reasonable.
4. The added duties will terminate immediately upon the contracting or employment of someone other than the Council member to perform the duties.
5. Extra duties performed before Council action shall not be compensated unless the Council finds that an emergency existed preventing the Council from considering the requirements of this section, and only when the Council makes a specific finding that an emergency situation existed.

6. In the event it is necessary to invoke this section, the City Council will consider whether the extra duties create a conflict of interest for the Council member and take reasonable precautions to avoid any conflict of interest. In the event a conflict of interest cannot be avoided, the Council must make reasonable efforts to diminish such conflict.

Any extended duties subject to this section shall be temporary and intended only to address extraordinary circumstances.

[The next page is 85]

## 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 at the discretion of the Council. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

**18.05 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, except that ordinances and amendments may be published by posting in the following places:

City Hall  
Post Office  
Walker State Bank

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than ten (10) days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the ten days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

3. Maintenance. Maintain all City records and documents, or accurate reproductions, for at least five (5) years except that ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption or replacement of public bonds or obligations shall be kept for at least



eleven (11) years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

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

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

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

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

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

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

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

**18.10 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 positions and the time at which they shall assume the duties of their offices.

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

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

**18.13 CITY SEAL.** The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders and certificates which it may be

necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words "WALKER, IOWA" and around the margin of which are the words "CITY SEAL."

## CHAPTER 19

# CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer

**19.01 APPOINTMENT.** The Council shall appoint by majority vote a City Treasurer to serve at the discretion of the Council.

**19.02 COMPENSATION.** The Treasurer is paid such compensation as specified by resolution of the Council.

**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.

10. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

## CHAPTER 20

### CITY ATTORNEY

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

20.06 Provide Legal Opinion  
20.07 Attendance at Council Meetings  
20.08 Prepare Documents  
20.09 Representation of City Employees

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

**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])*

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

*(Code of Iowa, Sec. 670.8)*

## CHAPTER 21

### PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission  
21.02 Term of Office  
21.03 Vacancies

21.04 Compensation  
21.05 Powers and Duties

**21.01 PLANNING AND ZONING COMMISSION.** The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of five (5) members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

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

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

*(Code of Iowa, Sec. 392.1)*

**21.03 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)*

**21.04 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)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*



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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

[The next page is 125]

## CHAPTER 30

### CONTRACT LAW ENFORCEMENT

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

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

[The next page is 135]

## CHAPTER 35

### FIRE DEPARTMENT

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

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

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

*(Code of Iowa, Sec. 364.16)*

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

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

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

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

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

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

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

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

**35.07 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 \$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 other fires causing an estimated damage of \$50.00 or more or

emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 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)*



## CHAPTER 36

# HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

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

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

#### **36.05 NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the County Sheriff's Department of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The County Sheriff's Department shall immediately notify the Department of Natural Resources.

2. Any other person who discovers a hazardous condition shall notify the County Sheriff's Department, which shall then notify the Department of Natural Resources.

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

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

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## CHAPTER 37

# DISASTER RECOVERY AND RECONSTRUCTION

37.01 Authority

37.02 Purposes

37.03 Definitions

37.04 Recovery Organization

37.05 Recovery Plan

37.06 General Provisions

37.07 Temporary Regulations

37.08 Demolition of Damaged Buildings

37.09 Temporary and Permanent Housing

37.10 Hazard Mitigation Program

37.11 Recovery and Reconstruction Strategy

**37.01 AUTHORITY.** The ordinance codified by this chapter is adopted by the Linn County Board of Supervisors and the respective City Councils acting under authority of the City Municipal Code, State Code 29C, Emergency Management and all applicable Federal laws and regulations.

**37.02 PURPOSES.** It is the intent of the Linn County Board of Supervisors and the respective City Councils under this chapter to:

- authorize creation of an organization to plan and prepare in advance of a major disaster for orderly and expeditious post-disaster recovery and to direct and coordinate recovery and reconstruction activities;
- direct the preparation of a pre-event plan for post-disaster recovery and reconstruction to be updated on a continuing basis;
- authorize in advance of a major disaster the exercise of certain planning and regulatory powers related to disaster recovery and reconstruction to be implemented upon declaration of a local emergency;
- identify means by which the County and the cities will take cooperative action with other governmental entities in expediting recovery; and
- implement means by which the County and the cities will consult with and assist citizens, businesses and community organizations during the planning and implementation of recovery and reconstruction procedures.

**37.03 DEFINITIONS.** As used in this chapter, the following definitions shall apply:

1. “Assessed value” means the value of a property, building, or other structure routinely assessed by the County or City Assessor for tax purposes. The assessed value will be the pre-event value of the property as reflected in the Assessor’s records at the time of the disaster event, unless extenuating circumstances can be established and approved by the Assessor.

2. “Building Official” means the person at the County or municipal level authorized to enforce established building codes.
3. “Chair” means the Chair of the Recovery Organization or an authorized representative and/or the Chair of the Recovery Task Force.
4. “Damage assessment survey” means a field survey to determine levels of damage for structures and/or to post placards designating the condition of structures.
5. “Development moratorium” means a temporary hold, for a defined period of time, on the issuance of building permits, approval of land use applications or other permits and entitlements related to the use, development and occupancy of private property in the interests of protection of life and property.
6. “Disaster Assistance Centers” (DACs) means multi-agency centers organized by FEMA for coordinating assistance to disaster victims.
7. “Disaster Field Office” (DFO) means a center established by FEMA for coordinating disaster response and recovery operations, staffed by representatives of Federal, State and local agencies as identified in the Federal Response Plan (FRP) and determined by disaster circumstances.
8. “Disaster Survey Report” (DSR) means a claim by a local jurisdiction for financial reimbursement for repair or replacement of a public facility damaged in a major disaster, as authorized under the *Stafford Act* and related Federal regulations, plans and policies.
9. “Emergency” means a local emergency, as defined by the Iowa State Code, which has been declared by the Board of Supervisors and the Mayor or Mayors of the affected municipalities for a specific disaster and that has not been terminated.
10. “Event” means any natural, manmade, or civil occurrence, which results in the declaration of a state of emergency and includes tornadoes, fires, floods, winter storms, or hazardous material releases, as referenced in the Hazard Mitigation Plan.
11. “Federal Response Plan” (FRP) means a plan prepared by FEMA and over two dozen other Federal departments and agencies to coordinate efforts of a large number of Federal, State and local agencies in providing response and recovery assistance in an expeditious manner.
12. “Flood Insurance Rate Map” (FIRM) means a map showing the outer boundaries of the floodway and floodplain as determined by the

Flood Insurance Administration through the National Flood Insurance Program.

13. “Hazard Mitigation Grant Program” means a program for assistance to Federal, State and local agencies whereby a grant is provided by FEMA as an incentive for implementing mutually desired mitigation programs, as authorized by the *Stafford Act* and related Federal regulations, plans and policies.

14. “Hazard Mitigation Plan” means a plan which addresses protection of the community from unreasonable risks associated with the effects of earthquakes, landslides, flooding, wild-land and urban fires, wind, coastal erosion and other natural and technological disasters. This plan will be incorporated into the Countrywide Multi-Hazard Emergency Operations Plan.

15. “Historic building or structure” means any building or structure included on the National Register of Historic Places, the State Register of Historic Places or points of interest, or a local register of historic places.

16. “Individual assistance program” means a program for providing small grants to individuals and households affected by a disaster to offset loss of equipment, damage to homes, or the cost of relocation to another home, as authorized under the *Stafford Act* and related Federal regulations.

17. “In-kind” means the same as the prior building or structure in size, height and shape, type of construction, number of units, general location and appearance.

18. “Major disaster” means a locally declared emergency also proclaimed as a state of emergency by the Governor of the State and by the President of the United States.

19. “Multi-Agency Hazard Mitigation Team” means a team of representatives from FEMA, other Federal agencies, State emergency management agencies and related State and local agencies, formed to identify, evaluate and report on post-disaster mitigation needs.

20. “Public assistance program” means a program for providing reimbursement to Federal, State and local agencies and nonprofit organizations for repair and replacement of facilities lost or damaged in a disaster, as authorized under the *Stafford Act* and related Federal regulations, plans and policies.

21. “Reconstruction” means the rebuilding of permanent replacement housing, construction of large-scale public or private facilities badly

damaged or destroyed in a major disaster, addition of major community improvements, and full restoration of a healthy economy.

22. “Recovery” means the process by which most of private and public buildings and structures not severely damaged or destroyed in a major disaster are repaired and most public and commercial services are restored to normal.

23. “Recovery Organization” means an interdepartmental organization which coordinates staff actions in planning and implementing disaster recovery and reconstruction functions.

24. “Recovery Plan” means a pre-event plan for post-disaster recovery and reconstruction comprised of policies, plans, implementation actions and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, as well as long-term mitigation.

25. “Recovery Strategy” means a post-disaster strategic program identifying and prioritizing major actions contemplated or under way regarding such essential recovery functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration and potential sources of financing to support these functions.

26. “*Stafford Act*” means the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Public Law 93-288, as amended).

**37.04 RECOVERY ORGANIZATION.** There is hereby identified the Recovery Organization for the purpose of coordinating County and City actions in planning and implementing disaster recovery and reconstruction activities. The Recovery Organization will be the existing Linn County Emergency Management Commission. This Commission is constituted under the provisions of Iowa Code 29C.9 and is comprised of a member of the Board of Supervisors, the Sheriff, and the Mayor of each municipality or designated representatives. The Commission is already charged to oversee multi-hazard emergency planning, response, mitigation, and recovery actions.

1. Powers and Duties. The Recovery Organization shall have such powers as enable it to carry out the purposes, provisions and procedures of this chapter, as identified in this chapter.
2. Recovery Task Force. The Recovery Organization shall include a Recovery Task Force comprised of the following officers and members:
  - The Chair of the Linn County Board of Supervisors shall be Acting Chair. The Acting Chair shall call the initial meeting of the Recovery Task Force. At the initial meeting, the members will elect the Chair



and Vice Chair. The other members of the Recovery Task Force will be the Mayors of each affected municipal jurisdiction.

- The Vice Chair of the Board of Supervisors, the Mayor Pro-Tempore or City Manager may act in the absence of the Chair of the Board of Supervisors, or Mayor of the affected jurisdiction.
- The County and affected City Attorneys who shall be Legal Advisers as requested by their respective elected officials.
- Other supporting staff may include the County and affected City Building Officials, County and affected City Engineers, Community Development/Planning Directors, Fire Chiefs, Emergency Management Directors, General Services Directors, Sheriff, Police Chiefs, Public Works Directors, Utilities Director, together with representatives from such other departments and offices as may be deemed necessary by the Chair for effective operations.

In the actions of the Recovery Task Force, each jurisdiction will have one vote.

3. Operations and Meetings. The Chair of the Emergency Management Commission shall have responsibility for Recovery Organization operations. When an emergency declaration is not in force, the Recovery Organization shall meet monthly or more frequently, upon call of the Chair of the Emergency Management Commission. After a declaration of an emergency, and for the duration of that declared emergency period, the Recovery Task Force shall meet daily or as frequently as determined by the Task Force Chair.

4. Succession. In the absence of the Chair of either the Recovery Organization or Recovery Task Force, the Vice Chair shall serve as Acting Chair of the respective organization and shall be empowered to carry out the duties and responsibilities of the Chair.

5. Organization. The Recovery Task Force may create such standing or ad hoc committees as determined necessary by the Chair.

6. Relation to Emergency Management Organization. The Recovery Organization shall be the Linn County Emergency Management Commission, which has interrelated functions and similar membership. The Emergency Management Director should be considered for any staff support as deemed necessary.

**37.05 RECOVERY PLAN.** Before a major disaster, the Recovery Organization shall prepare a pre-event plan for post-disaster recovery and reconstruction, referred to as the Recovery Plan, which shall be comprised of pre-event and post-disaster policies, plans, implementation actions, and

designated responsibilities related to expeditious and orderly post-disaster recovery, rebuilding, and long-term hazard mitigation.

1. Recovery Plan Content. The Recovery Plan shall address policies, implementation actions and designated responsibilities for such subjects as business resumption, damage assessment, demolitions, debris removal and storage, expedited repair permitting, fiscal reserves, hazards evaluation, hazard mitigation, historical buildings, illegal buildings and uses, moratorium procedures, nonconforming buildings and uses, rebuilding plans, redevelopment procedures, relation to emergency response plan and comprehensive general plan, restoration of infrastructure, restoration of standard operating procedures, temporary and replacement housing, and such other subjects as may be appropriate to expeditious and wise recovery.

2. Coordination of Recovery Plan with FEMA and Other Agencies. The Recovery Plan shall identify relationships of planned recovery actions with those of State, Federal or mutual aid agencies involved in disaster recovery, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the Environmental Protection Administration (EPA), the Department of Transportation (DOT), the U.S. Army Corps of Engineers (COE), the Iowa Emergency Management Division (IEMD) and other entities which may provide assistance in the event of a major disaster. The Recovery Organization shall distribute a draft copy of the plan to such agencies in sufficient time for comment prior to action on the Recovery Plan by the County Board of Supervisors and the respective City Councils.

3. Recovery Plan Adoption. Following formulation, the Recovery Plan shall be submitted by the Recovery Organization for review and approval. The Recovery Organization shall hold one or more public hearings to receive comments from the public on the Recovery Plan. Following one or more public hearings, the Recovery Organization may adopt the Recovery Plan by resolution, including any modifications deemed appropriate, or transmit the plan back to the Recovery Plan Development subcommittee for further modification prior to final action.

4. Recovery Plan Implementation. The Recovery Task Force shall be responsible for coordinating the implementation of the plan after a major disaster. The coordination of the recovery effort will be the responsibility of the Task Force, while the implementation of the recovery effort shall be the responsibility of the affected jurisdiction. After a declaration of emergency in a major disaster, the Chair of the

Recovery Task Force shall report to the Recovery Organization as often as necessary on implementation actions taken in the post-disaster setting, identify policy and procedural issues, and receive direction and authorization to proceed with plan modifications necessitated by specific circumstances.

5. Recovery Plan Training and Exercises. The Recovery Organization shall organize and conduct periodic training and exercises annually, or more often as necessary, in order to develop, convey and update the contents of the Recovery Plan. Such training and exercises will be conducted in coordination with similar training and exercises related to the County Multi-Hazard Emergency Operations Plan.

6. Recovery Plan Consultation with Citizens. The Recovery Organization shall schedule and conduct community meetings, periodically convene advisory committees comprised of representatives of homeowner, business and community organizations, or implement such other means as to provide information and receive input from members of the public regarding preparation, adoption or amendment of the Recovery Plan.

7. Recovery Plan Amendments. During implementation of the Recovery Plan, the Recovery Organization shall address key issues, strategies and information bearing on the orderly maintenance and periodic revision of the plan. In preparing modifications to the plan, the Recovery Organization shall consult with County and City departments, business and community organizations and other government entities to obtain information pertinent to possible Recovery Plan amendments.

8. Recovery Plan Coordination with Related Plans. The Recovery Plan shall be prepared in coordination with related elements of the Linn County Multi-Hazard Emergency Operations Plan, or such other plans as may be pertinent. Such related plan elements shall be periodically amended by the Emergency Management Commission to be consistent with key provisions of the Recovery Plan and vice versa.

**37.06 GENERAL PROVISIONS.** The following general provisions shall be applicable to implementation of this chapter following a major disaster:

1. Powers and Procedures. Following a declaration of local emergency in a major disaster and while such declaration is in force, the Recovery Task Force shall have authority to exercise powers and procedures authorized by this chapter, subject to extensive modification or replacement of all or portions of these provisions by separate ordinances adopted by the Board of Supervisors and affected City Councils.

2. Post-Disaster Operations. The Recovery Task Force shall coordinate post-disaster recovery and reconstruction operations with the local jurisdictions, which operations may include but are not limited to the following:
  - A. Activate and deploy damage assessment teams to identify damaged structures and to determine further actions that should be taken regarding such structures;
  - B. Activate and deploy hazards evaluation teams to locate and determine the severity of natural or technological hazards, which may influence the location, timing and procedures for repair and rebuilding processes;
  - C. Maintain liaison with the Linn County Emergency Operations Center (EOC) and other public and private entities, such as the American Red Cross and the State Emergency Management Division, in providing necessary information on damaged and destroyed buildings or infrastructure, natural and technological hazards, street and utility restoration priorities, temporary housing needs and similar recovery concerns;
  - D. Establish “one-stop” field offices located in or near impacted areas, staffed by trained personnel from appropriate departments, to provide information about repair and rebuilding procedures, issue repair and reconstruction permits, and provide information and support services on such matters as business resumption, industrial recovery, and temporary and permanent housing;
  - E. Activate streamlined procedures to expedite repair and rebuilding of properties damaged or destroyed in the disaster;
  - F. Recommend to the Board of Supervisors and the affected City Councils and other appropriate entities necessary actions for reconstruction of damaged infrastructure; prepare plans and proposals for action by the Board of Supervisors and affected City Councils for redevelopment projects, redesign of previously established projects or other appropriate special measures addressing reconstruction of heavily damaged areas;
  - G. Formulate proposals for action by the Board of Supervisors and affected City Councils to amend the Linn County Multi-Hazard Emergency Operations Plan and other relevant pre-disaster plans, programs and regulations in response to new needs generated by the disaster;

H. Such other recovery and reconstruction activities identified in the Recovery Plan or by this chapter, or as deemed by the Recovery Task Force as necessary to public health, safety and well-being.

3. Coordination with FEMA and Other Agencies. The Recovery Task Force shall coordinate recovery and reconstruction actions with those of State, Federal or mutual aid agencies involved in disaster response and recovery, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), The U.S. Army Corps of Engineers (COE), the State Emergency Management Division and other entities which provide assistance in the event of a major disaster. Intergovernmental coordination tasks may include but are not limited to the following:

A. Assign trained personnel to provide information and logistical support to the FEMA Disaster Field Office; supply personnel to provide information support for FEMA Disaster Assistance Centers (DACs);

B. Participate in damage assessment surveys conducted in cooperation with FEMA and other entities; participate in the Multi-Agency Hazard Mitigation Team with FEMA and other entities;

C. Cooperate in the joint establishment with other agencies of one-stop service centers for issuance of repair and reconstruction permits, business resumption support, counseling regarding temporary and permanent housing, and other information regarding support services available from various governmental and private entities;

D. Coordinate within City government the preparation and submittal of Disaster Survey Reports (DSRs) to FEMA; determine whether damaged structures and units are within flood plains identified on Flood Insurance Rate Map (FIRM) maps and whether substantial damage has occurred;

E. Implement such other coordination tasks as may be required under the specific circumstances of the disaster.

4. Consultation with Residents. The Recovery Task Force shall schedule and conduct community meetings, convene ad hoc advisory committees comprised of representatives of business and community organizations, or implement such other means as to provide information

and receive input from members of the public regarding measures undertaken under the authority of this chapter.

**37.07 TEMPORARY REGULATIONS.** The Recovery Task Force shall provide consultation on the local authority to administer the provisions of this section, temporarily modifying provisions of the County and Municipal Codes dealing with building and occupancy permits, demolition permits, and restrictions on the use, development or occupancy of private property, provided that such action, in the opinion of the Recovery Task Force, is reasonably justifiable for protection of life and property, mitigation of hazardous conditions, avoidance of undue displacement of households or businesses, or prompt restoration of public infrastructure. This consultation or coordination is to reduce conflicting guidance from multiple jurisdictions.

1. Duration. The provisions of this section shall be in effect for a period of six months from the date of a local emergency declaration following a major disaster or until termination of the local emergency declaration, whichever occurs earlier, or until these provisions are extended, modified, replaced by new provisions, or terminated, in whole or in part, by action of the Board of Supervisors and affected City Councils through separate ordinances.

2. Damage Assessment. The Recovery Task Force shall coordinate damage assessment teams having authority to conduct field surveys of damaged structures and post placards designating the condition of such structures as follows:

A. Inspected – Lawful Occupancy Permitted (GREEN TAG). Is to be posted on any building in which no apparent structural hazard has been found. This does not mean there are not other forms of damage, which may temporarily affect occupancy.

B. Restricted (YELLOW TAG). Is to be posted on any building in which damage has resulted in some form of restriction to continued occupancy. The individual posting this placard shall note in general terms the type of damage encountered and shall clearly and concisely note the restrictions on continued occupancy.

C. Unsafe – Do Not Enter or Occupy (RED TAG). Is to be posted on any building that has been damaged to the extent that continued occupancy poses a threat to life safety. Buildings posted with this placard shall not be entered under any circumstances except as authorized in writing by the department that posted the building or by authorized members of damage assessment teams. The individual posting this placard shall note

in general terms the type of damage encountered. This placard is not to be considered a demolition order.

D. Substantial Damage (BLUE TAG). Is a supplemental placard, usually issued by the jurisdiction Flood Plain Manager for flood related damages.

The chapter and section number, the name of the department, its address, and phone number shall be permanently affixed to each placard. Once a placard has been attached to a building, it shall not be removed, altered or covered until done so by an authorized representative of the department or upon written notification from the department. Failure to comply with this prohibition will be considered a misdemeanor punishable by a \$500 fine.

3. Development Moratorium. The Recovery Task Force shall coordinate the affected jurisdictions having the authority to establish a moratorium on the issuance of building permits, approval of land use applications or other permits and entitlements related to the use, development and occupancy of private property authorized under other chapters and sections of the County and Municipal Codes and related ordinances, provided that, in the opinion of the Recovery Task Force, such action is reasonably justifiable for protection of life and property and subject to the following:

A. Posting. Notice of the moratorium shall be posted in a public place and shall clearly identify the boundaries of the area in which a moratorium is in effect as well as the exact nature of the development permits or entitlements which are temporarily held in abeyance.

B. Duration. The moratorium shall be in effect subject to review by the Board of Supervisors and the affected City Councils at the earliest possible time, but for no longer than 90 days, at which time the Council shall take action to extend, modify or terminate such moratorium by separate ordinance.

4. Debris Clearance. The Recovery Task Force shall coordinate with the jurisdictions having the authority to remove from public rights-of-way debris and rubble, trees, damaged or destroyed cars, trailers, equipment, and other private property, without notice to owners, provided that in the opinion of the Task Force such action is reasonably justifiable for protection of life and property, provision of emergency evacuation, assurance of fire-fighting or ambulance access, mitigation of otherwise hazardous conditions, or restoration of public infrastructure. This action is to facilitate a coordinated course of action that will meet

the immediate needs of the community and to address resource allocation to accomplish the task in the most efficient manner.

5. One-Stop Center for Permit Expediting. The Recovery Task Force shall coordinate the establishment of one-stop centers, staffed by representatives of pertinent departments, for the purpose of establishing and implementing streamlined permit processing to expedite repair and reconstruction of buildings, and to provide information support for provision of temporary housing and encouragement of business resumption and industrial recovery. The Recovery Task Force shall coordinate such centers and procedures in coordination with other governmental entities, which may provide services and support, such as FEMA, SBA, HUD, COE or the State Emergency Management Division.

6. Temporary Use Permits. The Recovery Task Force shall coordinate with the jurisdictions having the authority to issue permits in any zone for the temporary use of property, which will aid in the immediate restoration of an area adversely impacted by a major disaster, subject to the following provisions:

A. Critical Response Facilities. Any police, fire, emergency medical or emergency communications facility which will aid in the immediate restoration of the area may be permitted in any zone for the duration of the declared emergency.

B. Other Temporary Uses. Temporary use permits may be issued in any zone, with conditions, as necessary, provided written findings are made establishing a factual basis that the proposed temporary use:

- (1) Will not be detrimental to the immediate neighborhood;
- (2) Will not adversely affect the Comprehensive General Plan or any applicable specific plan; and
- (3) Will contribute in a positive fashion to the reconstruction and recovery of areas adversely impacted by the disaster.

Temporary use permits may be issued for a period of one year following the declaration of local emergency and may be extended for an additional year, to a maximum of two years from the declaration of emergency, provided such findings are determined to be still applicable by the end of the first year. If, during the first or the second year, substantial evidence contradicting one or more of the required findings



comes to the attention of the Recovery Task Force, then the temporary use permit shall be revoked.

7. Temporary Repair Permits. Following a disaster, temporary emergency repairs to secure structures and property damaged in the disaster against further damage or to protect adjoining structures or property may be made without fee or permit where such repairs are not already exempt under other chapters of the County and Municipal Codes. The Building Official must be notified of such repairs within ten working days, and regular permits with fees may then be required.

8. Deferral of Fees for Reconstruction Permits. Except for temporary repairs issued under provisions of this chapter, all other repairs, restoration and reconstruction of buildings damaged or destroyed in the disaster shall be approved through permit under the provisions of other chapters of this Code. Fees for such repair and reconstruction permits may be deferred until issuance of certificates of occupancy.

9. Nonconforming Buildings and Uses. Buildings damaged or destroyed in the disaster which are legally nonconforming as to use, yards, height, number of stories, lot area, floor area, residential density, parking or other provisions of the zoning ordinance may only be repaired, reconstructed, or replaced in conformance with adopted building or zoning regulations.

**37.08 DEMOLITION OF DAMAGED BUILDINGS.** The Recovery Task Force shall coordinate with the jurisdictions having authority to order the condemnation and demolition of historic buildings and structures damaged in the disaster under the standard provisions of the County and Municipal Codes.

**37.09 TEMPORARY AND PERMANENT HOUSING.** The Recovery Task Force shall assign staff to work with FEMA, SBA, HUD, COE, the State Emergency Management Division and other appropriate governmental and private entities to identify special programs by which provisions can be made for temporary or permanent replacement housing which will help avoid undue displacement of people and businesses. Such programs may include deployment of mobile homes and mobile home parks under the temporary use permit procedures provided in Section 37.07 of this chapter, use of SBA loans and available Section 37.08 and Community Development Block Grant funds to offset repair and replacement housing costs, and other initiatives appropriate to the conditions found after a major disaster.

**37.10 HAZARD MITIGATION PROGRAM.** Prior to a major disaster, the Emergency Management Commission/Recovery Organization shall establish a

comprehensive hazard mitigation program, which includes both long-term and short-term components:

1. Hazard Mitigation Plan. The long-term component shall be prepared and adopted by resolution of the Board of Supervisors and the City Council as the hazard mitigation plan of the Linn County Multi-Hazard Emergency Operations Plan, for the purpose of enhancing long-term mitigation against future disasters. The hazard mitigation plan shall identify and map the presence, location, extent and severity of natural, manmade, or civil hazards, such as:

- A. Severe flooding;
- B. Wild-land and urban fires;
- C. Seismic hazards such as ground shaking and deformation, fault rupture, liquefaction, and dam failure;
- D. Slope instability, mudslides, landslides and subsidence;
- E. Tornadoes and other high winds;
- F. Technological hazards, such as oil spills, natural gas leakage and fires, hazardous and toxic materials contamination, nuclear power plant and radiological accidents, other industrial accidents, and ground, air, and rail transportation accidents;
- G. Civil incidents such as riots, terrorist actions, and crowd control issues;

The safety element shall determine and assess the community's vulnerability to such known hazards and shall propose measures to be taken both before and after a major disaster to mitigate such hazards.

2. Short-Term Action Program. A short-term hazard mitigation program shall be included in the Recovery Plan. It shall be comprised of hazard mitigation program elements of highest priority for action, including preparation and adoption of separate ordinances dealing with specific hazard mitigation and abatement measures, as necessary. Such ordinances may require special site planning, land use and development restrictions or structural measures in areas affected by flooding, urban or wild-land fire, wind, seismic or other natural hazards, or remediation of known technological hazards such as toxic contamination.

3. Post-Disaster Actions. Following a major disaster, the Recovery Task Force shall participate in the Multi-Agency Hazard Mitigation Team with FEMA and other entities, as called for in Section 409 of the *Stafford Act* and related Federal regulations. As appropriate, the Recovery Task Force may recommend to the Board of Supervisors and

the affected City Councils that the County and affected Cities participate in the Hazard Mitigation Grant Program, authorized in Section 404 of the *Stafford Act* in order to partially offset costs of recommended hazard mitigation measures.

4. New Information. As new information is obtained regarding the presence, location, extent, and severity of natural or technological hazards, or regarding new mitigation techniques, such information shall be made available to the public, and shall be incorporated as soon as practical possible within the Linn County Multi-Hazard Emergency Operations Plan and the Recovery Plan through amendment.

**37.11 RECOVERY AND RECONSTRUCTION STRATEGY.** At the earliest practicable time following the declaration of local emergency in a major disaster, the Recovery Task Force shall prepare a strategic program for recovery and reconstruction.

1. Functions. To be known as the Recovery Strategy, the proposed strategic program shall identify and prioritize major actions contemplated or under way regarding such essential functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration, and potential sources of financing to support these functions.

2. Review. The Recovery Strategy shall be forwarded to the Board of Supervisors and the affected City Council for review and approval following consultation with FEMA, other governmental agencies, and business and citizen representatives. The Recovery Strategy shall provide detailed information regarding proposed and ongoing implementation of initiatives necessary to the expeditious fulfillment of critical priorities and will identify amendment of any other plans, codes or ordinances that might otherwise contradict or otherwise block strategic action. The Recovery Task Force shall periodically report to the Board of Supervisors and the affected City Councils regarding progress toward implementation of the Recovery Strategy, together with any adjustments which may be called for by changing circumstances and conditions.

[The next page is 185]

## CHAPTER 40

### PUBLIC PEACE

40.01 Assault  
40.02 Harassment  
40.03 Disorderly Conduct

40.04 Unlawful Assembly  
40.05 Failure to Disperse

**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, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct 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 intentionally or recklessly causes unreasonable distress to the occupants thereof. *(Ord. 355 – Oct. 21 Supp.)*

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

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

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

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

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

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

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

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

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

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

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

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

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

E. “Show disrespect” means to deface, defile, mutilate, or trample.

F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

7. 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])*

8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

- A. Make loud and raucous that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
- B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
- C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

*(Code of Iowa, Sec. 723.5)*

**40.04 UNLAWFUL ASSEMBLY.** It is unlawful for three 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. A person who willingly joins in or remains as part of an unlawful assembly, or who joined a lawful assembly but willingly remains after the assembly becomes unlawful, knowing or have reasonable grounds to believe that it is such, commits an aggravated misdemeanor. *(Ord. 355 – Oct. 21 Supp.)*

*(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)*



## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

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

*(Code of Iowa, Sec. 719.2)*

**41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.**

No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

*(Code of Iowa, Sec. 718.4)*

**41.05 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

**41.06 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)*

**41.07 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])*

**41.08 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.

**41.09 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or other firearms of any kind within the City limits except as follows after notifying the City:

A. Military Honors during a funeral or memorial service.

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

*(Ord. 328 – Jun. 16 Supp.)*

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

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

**41.11 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.

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

1. Definition. The term “fireworks” includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

*(Code of Iowa, Sec. 727.2)*

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided 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:

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

*(Code of Iowa, Sec. 727.2)*

3. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theatre, or for signal

purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

*(Code of Iowa, Sec. 727.2)*

#### **41.13 DRUG PARAPHERNALIA.**

*(Code of Iowa, Sec. 124.414)*

1. As used in this section “drug paraphernalia” means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

- A. Manufacture a controlled substance.
- B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.
- C. Test the strength, effectiveness or purity of a controlled substance.
- D. Enhance the effect of a controlled substance.

Drug paraphernalia does not include hypodermic needles or syringes if manufactured, delivered, sold or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell or possess drug paraphernalia.

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

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

## CHAPTER 42

### PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

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

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

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the

property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

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

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

[The next page is 225]

## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

1. 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])*

## **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 in a public place.

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

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

*(Code of Iowa, Sec. 123.46)*

**45.03 OPEN CONTAINERS IN MOTOR VEHICLES.** *[See Section 62.01(49) and (50) of this Code of Ordinances.]*



## CHAPTER 46

### MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

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

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

B. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

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

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

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

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

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 5:00 a.m. *(Ord. 335 – Jan. 17 Supp.)*

3. Exceptions. The following are exceptions to the curfew:

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;

(2) Minor's place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;

- (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
    - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
    - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
  - D. The minor is on an emergency errand for a responsible adult;
  - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.
5. Enforcement Procedures.
  - A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.
  - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

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

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

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

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

nicotine products, vapor products or cigarettes by a person under twenty-one (21) years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* and lawfully offers for sale or sells cigarettes or tobacco products.

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

*(Ord. 356 – Oct. 21 Supp.)*

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

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

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## CHAPTER 47

# COMMUNITY ROOM AND PARK REGULATIONS

47.01 Purpose  
47.02 Use of Drives Required  
47.03 Fires  
47.04 Littering  
47.05 Keg Beer  
47.06 Camping Areas

47.07 Camping Refused  
47.08 North Pavilion Reservations  
47.09 South Pavilion Reservations  
47.10 Park Hours  
47.11 Community Room  
47.12 Ballpark Regulations

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

*(Code of Iowa, Sec. 392.1)*

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

**47.03 FIRES.** No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area.

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

**47.05 KEG BEER.** No person shall have keg beer in a City park unless such person has obtained approval from the City Council and has deposited a fifty dollar (\$50.00) refundable damage deposit with the City Clerk.

**47.06 CAMPING AREAS.** No person shall camp in any portion of a park except with Council permission and in portions of the park prescribed or designated by the Council.

**47.07 CAMPING REFUSED.** The City may refuse camping privileges or rescind any and all camping privileges for cause.

**47.08 NORTH PAVILION RESERVATIONS.** Reservations for the North Pavilion are to be made with the City Clerk. A one hundred and fifty dollar (\$150.00) fee is required for each time the North Pavilion is rented, of which \$100.00 will be a security deposit to be refunded if it is clean, undamaged, and the garbage is removed from the pavilion by the renters. A two hundred and fifty dollar (\$250.00) fee is required for each weekly rental of the North

Pavilion, of which \$100.00 will be a security deposit to be refunded if it is clean, undamaged, and the garbage is removed from the pavilion by the renters. Three (3) days or more will be considered a weekly rental. Non-profit organizations are allowed to use the facility free of charge.

*(Ord. 363 – Jan. 22 Supp.)*

**47.09 SOUTH PAVILION RESERVATIONS.** The South Pavilion cannot be reserved. Occupancy will be on a “first come, first served” basis.

**47.10 PARK HOURS.** All City parks shall be closed from 11:00 p.m. to 5:00 a.m.

*(Ord. 334 – Jan. 17 Supp.)*

**47.11 COMMUNITY ROOM.** Reservations for the community room are to be made with the City Clerk. A one hundred and seventy five dollar (\$175.00) fee is required for each time the community room is rented, of which \$100.00 will be a security deposit to be refunded if it is clean, undamaged, and the garbage is removed from the community room by the renters. Non-profit organizations are allowed to use the facility free of charge.

*(Ord. 344 – Jun. 21 Supp.)*

**47.12 BALLPARK REGULATIONS.** All leagues (including tee ball, pitch, Babe Ruth) shall submit a schedule of games to be played at the ballpark, including all games to be played under the lights.

1. Lights.
  - A. On Friday and Saturday, the last game shall start no later than 10:30 p.m., with lights out no later than midnight.
  - B. On Sunday through Thursday, the last game shall start no later than 9:00 p.m., with lights out no later than 10:30 p.m.
  - C. Lights will not be used for any practices.
  - D. Time of usage of the lights will be turned into the City bi-monthly in writing before each Council meeting.
  - E. Fuse box shall be locked at all times. The responsibility for this will be on the teams last using the lights.
  - F. The key will remain the property of the City. The key may be kept by the leagues and a responsible person designated by the league to keep the key.



2. Alcohol. See Section 47.05 for keg beer regulations. No alcohol sales or donations for alcohol shall be permitted without prior Council approval, leasing the property with proper insurance, liquor license and police coverage.
3. Admission Fees. No admission fees to the ball park are permitted without Council approval and leasing the property.
4. Curfew. Curfew shall be 12:30 a.m. during summer months of May through September.

Abuse of any of these privileges will result in the loss of said privileges.

*(Section 47.12 – Ord. 344 – Jun. 21 Supp.)*

[The next page is 245]

## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

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

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

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.
9. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.
10. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 150)**
11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the Code of Iowa or places resorted to by persons using controlled substances, as defined in Section 124.101 of the Code of Iowa, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

**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 150)**

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

*(Code of Iowa, Sec. 657.3)*

**50.05 NUISANCE ABATEMENT.** Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine

on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

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

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

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

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

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

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

exist, it shall be ordered abated within a reasonable time under the circumstances.

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

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

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

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds 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)*

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

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

## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

### 51.05 Notice to Abate

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

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

2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and 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 which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

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.

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.

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

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

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

**51.04 EXCEPTIONS.** The provisions of this chapter do not apply to any junk or a junk vehicle stored within a garage or other completely enclosed structure or upon any of the following premises, as long as the garage, structure or premises is not in violation of any provision of this Code of Ordinances:

1. Authorized vehicle recycler;
2. Bona fide educational institution;
3. Licensed motor vehicle dealer;
4. Licensed travel trailer dealer;
5. Motor vehicle franchiser; or
6. Salvage yard.

**51.05 NOTICE TO ABATE.** Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

[The next page is 265]



## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.12 Dogs in Parks
55.02 Animal Neglect	55.13 Confinement of Female Dogs in Heat
55.03 Livestock Neglect	55.14 Dangerous Domestic Animals
55.04 Abandonment of Cats and Dogs	55.15 Vicious Dogs and Dangerous Animals
55.05 Livestock	55.16 Rabies Vaccination
55.06 At Large Prohibited	55.17 Owner's Duty
55.07 Damage or Interference	55.18 Confinement
55.08 Annoyance or Disturbance	55.19 At Large: Impoundment
55.09 Number of Animals	55.20 Disposition of Animals
55.10 Unhealthful or Unsanitary Conditions	55.21 Pet Awards Prohibited
55.11 Tethering of Animals	

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
3. "At heel" means, with reference to a dog, within three feet of a person and subject to that person's strict obedient command and control.
4. "At large" means off the premises of the owner, unless:
  - A. The animal is on a leash, cord, chain or similar restraint not more than six feet in length and is under the control of the person, or
  - B. The animal is within a motor vehicle, or
  - C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter or police vehicle, or
  - D. The animal is at heel.
5. "Business" means any enterprise relating to any of the following:
  - A. The sale or offer for sale of goods or services.
  - B. A recruitment for employment or membership in an organization.
  - C. A solicitation to make an investment.
  - D. An amusement or entertainment activity.

6. “City Veterinarian” means a person licensed to practice veterinarian medicine, surgery and dentistry in the State, designated by the City from time to time as City Veterinarian.
7. “Dangerous animal” means, for the purposes of this chapter, all of the following, whether actually vicious or not:
  - A. Lions, tigers, jaguars, leopards, cougars, lynx, ocelots and bobcats;
  - B. Black bears, polar bears and grizzly bears;
  - C. Alligators and crocodiles;
  - D. All venomous and constricting snakes.
8. “Dangerous domestic animal” means, for the purposes of this chapter, all of the following animals, whether or not actually vicious:
  - A. Staffordshire Terriers – know as Pit Bulls.
9. “Dog” means any member of the canine species, male or female, neutered or unneutered.
10. “Fair” means any of the following:
  - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
  - B. An exhibition of agricultural or manufactured products.
  - C. An event for operation of amusement rides or devices or concession booths.
11. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.
12. “Housing” means any location where an animal is normally kept.
13. “In heat” means a female dog during the active state of estrus.
14. “Kennel dogs” means dogs kept or raised solely for the purpose of sale and kept under constant restraint.
15. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.

*(Code of Iowa, Sec. 717.1)*
16. “Owner” means any person owning, keeping, sheltering or harboring an animal.

17. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

18. “Pet shop” means any business established for the purpose of breeding, buying, selling or boarding of animals, excepting kennels.

19. “Veterinary hospital” means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseased and injured animals.

20. “Vicious dog” means a dog which inflicts a bite or bites upon and/or attacks human beings or domesticated animals without cause or justification, and may or may not be a dangerous domestic animal.

21. “Walker” means any person having control over or attempting to have control over a dog when it is off the premises of its owner.

**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.

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

**55.09 NUMBER OF ANIMALS.** No person shall harbor or maintain such number of dogs or cats, or combination thereof, to create unhealthful or unsanitary conditions for the humans or animals occupying the premises, or create any other conditions constituting a nuisance. If such conditions exist, the City Veterinarian is authorized to make an investigation, and after notice to the person occupying or maintaining the residence or premises, or the persons harboring or maintaining the animals, and hearing, the City Veterinarian may order that such number of the animals be moved from the residence or premises to remedy or correct the unhealthful, unsanitary or other conditions constituting a nuisance. Upon the failure of the person or persons to follow the orders issued by the City Veterinarian, appropriate action may be pursued in the courts to enforce the order of the City Veterinarian and/or to correct the conditions and/or to abate the nuisance.

**55.10 UNHEALTHFUL OR UNSANITARY CONDITIONS.**

1. An owner shall keep all structures, pens, coops, or yards where animals are confined clean, devoid of vermin, and free of odors arising from feces.
2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.
3. All feces removed shall be placed in an airtight container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.

An owner may, as an alternative to subsection 3 above, collect the feces and turn it under the surface of the owner's soil in a manner that prevents odor or collection of vermin.

**55.11 TETHERING OF ANIMALS.** No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley or private property other than the owner's.

**55.12 DOGS IN PARKS.**

1. Properly trained dogs for the blind or deaf, and other properly trained therapy dogs are allowed in the City parks.
2. Dogs shall be allowed in the City parks if they are attached to a leash not more than six (6) feet in length, the leash has sufficient strength to restrain the dog, and the leash is held by a person capable of restraining and controlling the dog.

*(Ord. 336 – Jan. 17 Supp.)*

**55.13 CONFINEMENT OF FEMALE DOGS IN HEAT.** The owner of any female dog in heat shall confine said animal inside the house or building on the owner's premises during the heat period. The owner may remove the dog in heat from his or her premises for purposes of breeding and/or exercise, provided the animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of the owner. No female dog in heat shall be allowed at heel.

**55.14 DANGEROUS DOMESTIC ANIMALS.** Dangerous domestic animals within the City limits shall be muzzled at all times.

**55.15 VICIOUS DOGS AND DANGEROUS ANIMALS.**

1. No person shall own, keep or harbor a vicious dog or dangerous animal within the City.
2. It is the duty of the Animal Control Officer to impound any vicious dog or dangerous animal. In the event the animal cannot be caught by the Animal Control Officer without exposing the officer to danger or personal injury, the animal may be destroyed.
3. The following are excluded from the requirements of this section:
  - A. Public zoos, fully accredited educational or medical institutions; Linn County Humane Society; Cedar Rapids Animal Shelter; public museums where such dangerous animals are kept as live specimens for public viewing, or for the purpose of instruction and research.
  - B. Exhibitions to the public by a traveling circus, carnival, exhibit or show, duly licensed in accordance with the ordinances of the City.

- C. Dangerous animals in a licensed veterinary hospital for treatment.
- D. Dangerous animals under the jurisdiction of and in the possession of the Department of Natural Resources.
- E. Animals possessed under authority of a State-issued game breeder's license or scientific collector's license.
- F. Dangerous animals maintained by the Federal, State or County government.

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

*(Code of Iowa, Sec. 351.33)*

**55.17 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)*

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

*(Code of Iowa, Sec. 351.39)*

**55.19 AT LARGE: IMPOUNDMENT.** Animals found at large in violation of this chapter shall be seized and impounded at the impoundment facilities utilized by the City, 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.

**55.20 DISPOSITION OF ANIMALS.** When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

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

**55.21 PET AWARDS PROHIBITED.**

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

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

[The next page is 291]



## 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 “Walker 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 following described territory:  
Beginning at a point at the west end of the alley in Block Ten (10) connecting Park Street and Greene Street, thence east along the alley to Greene Street, thence north on Greene Street, to the lot line between lots Thirteen (13) and Fourteen (14), thence east on the said lot line to the alley connecting Latham Street and Dows Street, thence south on the alley to a point twelve and one-half (12½) feet north of lot Sixteen (16) in Block Six (6), thence west to Greene Street, thence south on Greene Street to Dows Street, thence west on Dows street to Park Street, thence north on Park Street to the point of beginning
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 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 Sheriff’s 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)*

**60.06 PEACE OFFICER’S AUTHORITY.** A peace officer is authorized to stop a vehicle to require exhibition of the driver’s license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book,

bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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**CHAPTER 61**  
**TRAFFIC CONTROL DEVICES**

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations  
62.02 Play Streets Designated  
62.03 Vehicles on Sidewalks  
62.04 Clinging to Vehicle

62.05 Quiet Zones  
62.06 Obstructing View at Intersections  
62.07 Go-Carts  
62.08 Engine Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.

18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Radar jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.



43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.
55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing; convoys; drawbars.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.

71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal of train.
85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver's view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.

100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.

129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.450 – Hazardous materials transportation.
149. Section 321.454 – Width of vehicles.
150. Section 321.455 – Projecting loads on passenger vehicles.
151. Section 321.456 – Height of vehicles; permits.
152. Section 321.457 – Maximum length.
153. Section 321.458 – Loading beyond front.
154. Section 321.460 – Spilling loads on highways.
155. Section 321.461 – Trailers and towed vehicles.
156. Section 321.462 – Drawbars and safety chains.
157. Section 321.463 – Maximum gross weight.
158. Section 321.465 – Weighing vehicles and removal of excess.
159. Section 321.466 – Increased loading capacity; reregistration.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

**62.07 GO-CARTS.** “Go-cart” means a motorized vehicle with three or more wheels and which is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 750 pounds and which does not fit the definition of an all-terrain vehicle. No go-carts shall be operated with the City limits except as specifically described herein:

1. On private property only after the owner has granted permission;
2. On public streets only in the event of an emergency which has been declared by valid public officials, and which specifically requires the use of such vehicles for public safety, and only during the duration of such emergency;
3. On public streets or rights-of-way or in public parks when operated as tools by employees or contractors of the City;

4. On City property for sporting or other special events with specific consent of the Council as set forth in a duly presented, heard and passed resolution.

**62.08 ENGINE BRAKES.** It is unlawful for any person in any part of the City to make or cause to be made loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any vehicle (commonly known as “jake braking”).

[The next page is 311]

## CHAPTER 63

# SPEED REGULATIONS

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

63.04 Special Speed Zones  
63.05 Minimum Speed

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

*(Code of Iowa, Sec. 321.285)*

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

1. Business District – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

*(Code of Iowa, Sec. 321.290)*

– NONE –

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

*(Code of Iowa, Sec. 321.294)*



## CHAPTER 64

# TURNING REGULATIONS

### 64.01 Turning at Intersections

### 64.02 U-turns

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

1. At the intersection of Greene Street and Rowley Street.

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

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

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

*(Code of Iowa, Sec. 321.345)*

1. Vehicles traveling west and east on Grant Street shall stop at Mill Street.
2. Vehicles traveling west and east on Dows Street shall stop at Greene Street.
3. Vehicles traveling east on Dows Street shall stop at Ely Street.
4. Vehicles traveling east on Washington Street shall stop at Greene Street.
5. Vehicles traveling west on Rowley Street shall stop at Mill Street.
6. Vehicles traveling east and west on Rowley Street shall stop at Greene Street.
7. Vehicles traveling east and west on Rowley Street shall stop at Ely Street.
8. Vehicles traveling east on Rowley Street shall stop at County Road W-35.
9. Vehicles traveling east and west on Latham Street shall stop at Greene Street.
10. Vehicles traveling east on Latham Street shall stop at Ely Street.
11. Vehicles traveling east on Wilson Street shall stop at Ely Street.
12. Vehicles traveling east and west on Linn Street shall stop at the intersection of Ely Street and Ely Boulevard.
13. Vehicles traveling east on Linn Street shall stop at County Road W-35.
14. Vehicles traveling north on Mill Street shall stop at Linn Street.
15. Vehicles traveling north and south on Mill Street shall stop at Rowley Street.

16. Vehicles traveling south on Mill Street shall stop at North Center Point Road.
17. Vehicles traveling west on Grant Street shall stop at Spencers Grove Road.
18. Vehicles traveling north and south on Mill Street shall stop at Grant Street.
19. Vehicles traveling north and south on Bever Street shall stop at Grant Street.
20. Vehicles traveling south on Park Street shall stop at Dows Street.
21. Vehicles traveling north and south on Greene Street shall stop at Rowley Street.
22. Vehicles traveling south on Greene Street shall stop at Grant Street.
23. Vehicles traveling south on Ely Boulevard shall stop at Linn Street.
24. Vehicles traveling north on Ely Street shall stop at Linn Street.
25. Vehicles traveling north and south on Ely Street shall stop at Rowley Street.
26. Vehicles traveling south on Ely Street shall stop at Grant Street.
27. Vehicles traveling north on South Ely Street shall stop at Grant Street.
28. Vehicles traveling north on Prairie Drive shall stop at Grant Street.
29. Vehicles traveling south on Maple Lane shall stop at Rowley Street.
30. Vehicles traveling north on Maple Lane shall stop at Linn Street.
31. Vehicles traveling south on County Road W-35 shall stop at Grant Street.
32. Vehicles traveling north on Park Street shall stop at Linn Street.
33. Vehicles traveling north and south on Park Street shall stop at Rowley Street.
34. Vehicles traveling north on Greene Street shall stop at Linn Street.
35. Vehicles traveling north on Bever Street shall stop at Dows Street.

**65.02 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 Grant Street and Mill Street;
2. Intersection of Rowley Street and Greene Street;
3. Intersection of Rowley Street and Ely Street;
4. Intersection of Linn Street and Ely Street and Ely Boulevard;
5. Intersection of Grant Street and Ely Street and South Ely Street;
6. Intersection of Dows Street and Ely 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. Mill Street and Rowley Street.

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

*(Code of Iowa, Sec. 321.345)*

1. Vehicles traveling north on Bever Street shall yield at Park Avenue.
2. Vehicles traveling south on Traer Street shall yield at Dows Street.
3. Vehicles traveling north on Traer Street shall yield at Rowley Street.
4. Vehicles traveling north on Bever Street shall yield at Dows Street.
5. Vehicles traveling south on Pershing Street shall yield at Linn Street.
6. Vehicles traveling west on Wallington Street shall yield at Ely Boulevard.
7. Vehicles traveling west on Wilson Street shall yield at Park Street.
8. Vehicles traveling east and west on Wilson Street shall yield at Greene Street.
9. Vehicles traveling west on Latham Street shall yield at Park Street.

10. Vehicles traveling west and east on Washington Street shall yield at Park Street.
11. Vehicles traveling west on Dows Street shall yield at Mill Street.
12. Vehicles traveling west on Karen's Court shall yield at Maple Lane.
13. Vehicles traveling west on Elk Street shall yield at Prairie Drive.
14. Vehicles traveling west on Buffalo Street shall yield at Prairie Drive.

**65.05 SCHOOL STOPS.** Such intersections and places in the City as designated by the Council by resolution are hereby established as school zones, and when moveable stop signs have been placed in the street at the limits of said zones, facing toward the oncoming motor vehicles which are to be stopped, or when electric school stop signs or folding, rollout or swing out school stop signs have been placed in the street at the limits of said zones or as near as practicable at the property line of the street at the entrance to which the stop must be made, facing toward the oncoming vehicles which are to be stopped, every driver of a vehicle approaching said zone from the direction in which said stop sign faces shall bring the vehicle to a full stop within ten (10) feet of the stop sign or property line of the street at the entrance to which the stop must be made or at the nearest line of the crosswalk or at the nearest line of the roadway or at a clearly marked stop line, before entering said school zone, except when directed to proceed by a peace officer.

*(Code of Iowa, Sec. 321.249)*

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

*(Code of Iowa, Sec. 321.353)*

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

**65.08 YIELD TO PEDESTRIANS IN CROSSWALKS.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian

crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

*(Code of Iowa, Sec. 321.327)*

[The next page is 327]



## CHAPTER 66

### LOAD AND WEIGHT RESTRICTIONS

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

66.04 Load Limits on Bridges  
66.05 Truck Route

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

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

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

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

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

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

– NONE –

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

*(Code of Iowa, Sec. 321.471)*

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

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

*(Code of Iowa, Sec. 321.473)*

- A. All designated freeways, expressways, U.S. and State highways;
- B. Grant Street from Spencer's Grove Road east to east City limits;
- C. Mill street from North Center Point Road north to Linn Street;
- D. Linn Street from west City limits east to Mill Street;
- E. Rowley Street from Mill Street east to Park Street;
- F. Park Street from Rowley Street south to Dows Street;
- G. Dows Street from Mill Street east to Park Street;
- H. Traer Street from Rowley Street south to Dows Street;
- I. Bever Street from Grant Street north to Dows Street.

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

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

**CHAPTER 67**  
**PEDESTRIANS**

67.01 Walking in Street  
67.02 Hitchhiking

67.03 Pedestrian Crossing  
67.04 Use Sidewalks

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

### ONE-WAY TRAFFIC

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

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

– NONE –

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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 Trailer Parking Limited  
69.11 Bus Parking Limited  
69.12 Loading Zones  
69.13 Snow Emergency  
69.14 Controlled Access Facilities

**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. Greene Street on both sides from the alley north of Rowley Street to Washington Street;
2. Greene Street on the west side from Washington Street to Dows Street;
3. Rowley Street on the north and south side from Ely Street to Park Street.

*(Ord. 325 – Dec. 15 Supp.)*

**69.04 ANGLE PARKING – MANNER.** Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No

part of any vehicle, or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

*(Code of Iowa, Sec. 321.361)*

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

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

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

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

1. Crosswalk. On a crosswalk.  
*(Code of Iowa, Sec. 321.358[5])*
2. Center Parkway. On the center parkway or dividing area of any divided street.  
*(Code of Iowa, Sec. 321.236[1])*
3. Mailboxes. Within 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 an intersection 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. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

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

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

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

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

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

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

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the Code of Iowa when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.

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

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

– NONE –

**69.09 TRUCK PARKING LIMITED.** No person shall park a motor vehicle weighing 10 tons or more, when loaded or empty, or greater than 12 feet in total length (except that semi-tractors only may not exceed 12 feet from the front bumper to the rear of the cab or sleeper), with or without trailer attached, in violation of the following regulations. The provisions of this section do not apply to pickup, light delivery or panel delivery trucks with no attached trailer.

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

1. No Truck Parking on City Streets. No such vehicle shall park on any City street except as noted below:

A. When actually receiving or delivering merchandise or cargo, and only so long as such vehicle is stopped or parked in a manner which will not interfere with the free flow of other traffic.

B. When stopped for service, but not to exceed one hour.

C. On Traer Street between Rowley Street and Dows Street, so long as normal business operations of the adjacent property owners are not obstructed.

D. In the event of an emergency or accident, but only for the duration of said emergency or accident and for the period required by authorities for investigation of said incident.

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot or driveway between the hours of 9:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than 30 minutes except as noted in subsection 1(D) above.

**69.10 TRAILER PARKING LIMITED.** No trailer, wagon or other vehicle meant to be towed by a tractor, truck, automobile, other powered vehicle or other source of power shall be left standing or parked on any City street, whether or not attached to said power source, for more than thirty (30) minutes except as noted below.

1. When actually receiving or delivering merchandise or cargo, and only so long as such vehicle is stopped or parked in a manner which will not interfere with the free flow of other traffic.
2. When stopped for service, but not to exceed one hour.
3. On Traer Street between Rowley Street and Dows Street, so long as normal business operations of the adjacent property owners are not obstructed.
4. In the event of an emergency or accident, but only for the duration of said emergency or accident and for the period required by authorities for investigation of said incident.
5. Not more than 30 minutes in any case, except as noted in subsection 4 above, when containing livestock or other caged or confined animals.

**69.11 BUS PARKING LIMITED.** No person shall park a motor vehicle weighing 10 tons or more, when loaded or empty, or greater than 12 feet in total length, and designed for the purpose of conveying more than 12 passengers in violation of the following regulations, except as noted below:

1. When actually receiving or delivering passengers, and only so long as such vehicle is stopped or parked in a manner which will not interfere with the free flow of other traffic.
2. When stopped for service, but not to exceed one hour.
3. On Traer Street between Rowley Street and Dows Street, so long as normal business operations of the adjacent property owners are not obstructed.
4. In the event of an emergency or accident, but only for the duration of said emergency or accident and for the period required by authorities for investigation of said incident.
5. School buses during, and for one hour before and one hour after, school sponsored or school sanctioned events.

6. School buses operated by or on behalf of North Linn School District only at property owned by said school district or at property zoned as a single family dwelling at which the bus driver for said school district resides, and only during the official school year or at times that authorized school activities are occurring; except that, at no time shall any bus be stopped or parked on Greene Street between Dows Street and Rowley Street or on Rowley Street between Park Street and Ely Street other than allowed in exceptions 1, 2 and 4 above.

No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot or driveway between the hours of 9:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

**69.12 LOADING ZONES.** No person shall stop, stand or park a vehicle except while actually in the process of loading or unloading such vehicle and then for no more than thirty (30) minutes in the following designated loading zones:

1. On Park Street, on the east side, from Rowley Street to 50 feet south.

**69.13 SNOW EMERGENCY.** Whenever a snow emergency is declared, parking on the City streets shall be permitted on the even sides of the street when the snow emergency is declared to start on an even numbered day, and on odd numbered sides of the street, when the snow emergency is declared to start on an odd numbered day. This shall continue from proclamation through the duration of the snow or ice storm and a 48-hour period after cessation of the storm. While under said snow emergency parking shall adhere to even sides of the street on even numbered days and odd sides of the street on odd numbered days, unless the snow has been removed or plowed from said street, alley or parking area. Vehicles violating this snow emergency section shall be ticketed and towed at the owner's expense.

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

**69.14 CONTROLLED ACCESS FACILITIES.** Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

[The next page is 355]

## CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Vehicle Unattended

70.04 Presumption in Reference to Illegal Parking

70.05 Impounding Vehicles

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

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

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

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

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

**70.03 PARKING VIOLATIONS: 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.

**70.04 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.

**70.05 IMPOUNDING VEHICLES.** A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public

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

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

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

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

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

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

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

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

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

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

[The next page is 365]



## CHAPTER 75

# ALL-TERRAIN VEHICLES, OFF-ROAD UTILITY VEHICLES, AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 Operation of ATV/UTV's on Roadways

75.04 Operation of Snowmobiles

75.05 Negligence

75.06 Accident Reports

75.07 Penalties

75.08 Severability Clause

75.09 Effective Date

75.10 Parking Restricted – Appendix A

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

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

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

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

2. An off-road utility vehicle (“UTV”) is a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks that have a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A UTV includes the following vehicles:

A. “Off-road utility vehicle – Type 1” is a UTV with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.

B. “Off-road utility vehicle – Type 2” is a UTV, other than an off-road utility vehicle – Type 1, with a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less.

C. “Off-road utility vehicle – Type 3” is a UTV with a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.

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

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

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

4. “Snowmobile” means a motorized vehicle that weighs less than one thousand (1,000) pounds, that uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

5. “Designated riding area” means an ATV riding area on any public land or public ice under the jurisdiction of the Department of Natural Resources (“DNR”) that has been designated by the department for ATV use.

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

6. “Designated riding trail” means an ATV trail on any State or County designated public or private land, or public ice that has been identified for ATV use.

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

7. “Nonambulatory person” means an individual with paralysis of the lower half of the body with the involvement of both legs, usually caused by disease of or injury to the spinal cord, or caused by the loss of both legs or the loss of a part of both legs.

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

8. “Public ice” means any frozen, navigable waters within the territorial limits of this State and the frozen marginal river areas adjacent to this State, other than farm ponds, that are under the jurisdiction of the Natural Resource Commission of the DNR.

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

9. “Public land” means federally, State owned land as well as political subdivisions of the State and land acquired or developed for public recreation pursuant to § 321I.8.

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

10. “Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

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

### **75.03 OPERATION OF ATV/UTV’S ON ROADWAYS**

1. City Limits. A registered ATV or UTV may be operated on Walker secondary roadways pursuant to the restrictions in this ordinance as referenced in Section 75.10, and those restrictions imposed by the *Code of Iowa*.

2. Lawful Operation.

A. Lawful ATV or UTV operation is limited to:

- (1) Roadways within Walker, Iowa city limits.
- (2) Between the hours of sunrise and sunset.

B. All ATV and UTV operators must:

- (1) Follow all local regulations and ordinances when operating in Linn County.
- (2) Be at least 16 years old.
- (3) Carry a valid driver’s license.
- (4) If under 18 years old must:
  - a. Carry a valid certificate showing successful completion of an Iowa DNR approved ATV education course.
  - b. Wear an ATV safety helmet.

C. Residents who reside on a restricted roadway are permitted to operate on that restricted roadway only to reach the nearest unrestricted roadway.

3. Unlawful Operation.

A. A person shall not operate an ATV and/or UTV under any of the following conditions:

- (1) At a rate of speed greater than fifteen (15) miles per hour.
- (2) In a careless, reckless, or negligent manner to:
  - a. Endanger any person.
  - b. Cause injury or damage to person or property; or

- c. Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
- (3) While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
  - (4) Without the following equipment:
    - a. Properly functioning headlight and taillight, operational brakes, functioning brake lights, and speedometer.
    - b. A properly functioning muffling device that complies with the standards and procedures required by Iowa Code § 321I.12.
  - (5) Without wearing a properly adjusted and fastened seatbelt.
  - (6) In any tree nursery or planting in a manner which damages or destroys growing stock.
  - (7) On any public land, public ice, or designated riding trail in violation of official signs prohibiting such operation.
  - (8) In any park, wildlife area, preserve, refuge, or game management area, except on designated riding areas identified by the DNR or designated riding areas identified by the local governing authority.
  - (9) Any portion of a meandered stream or the bed on a non-meandered stream which has been identified as a navigable stream or river by the Iowa DNR and which is covered by water. This provision does not apply to designated riding areas, designated riding trails, construction vehicles engaged in lawful activity, and/or operation of ATV on ice.
  - (10) Upon an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at established crossings.
  - (11) With more persons on the vehicle than it was designed to carry. This paragraph does not apply to a person who operates an ATV or UTV as part of a farm operation as defined in Iowa Code § 352.2.

(12) On any riding area or trail unless the trail is designated by signs as open to ATV and UTV operation.

B. A person shall not operate an ATV or UTV with a firearm in the person's possession while operating or riding on the vehicle unless the firearm is unloaded and enclosed in a carrying case, subject to the following exceptions:

(1) Exceptions:

a. The person is riding on or operating an ATV or UTV on land owned or possessed by the person and the person's conduct is otherwise lawful; or

b. The person is riding on or operating an ATV or UTV on land that is not owned or possessed by the person and all the following apply:

i. The loaded firearm is a pistol or revolver and is secured in a retention holster upon the person,

ii. The person possesses and displays to a peace officer upon demand a valid permit to carry weapons which has been issued to the person, and

iii. The person's conduct is within the limits of the permit to carry weapons.

(2) A nonambulatory person may carry an uncased and unloaded firearm while operating or riding on an ATV.

(3) While discharging a firearm as the operator or passenger, except a nonambulatory person, may discharge a firearm from an ATV while lawfully hunting if the person is not operating or riding on a moving ATV.

4. Registration Requirements and Other Conditions. Individuals operating an ATV and UTV on Walker roadways must annually register the vehicle with the Iowa DNR. The following conditions to registration apply:

A. The owner of each ATV or UTV shall provide proof of ownership, including but not limited to bill of sale, Iowa DNR registration or registration from the appropriate out-of-state authority, and proof of liability insurance as required by Iowa Code §§ 321.20B and 321A.21;

- B. Each ATV or UTV registered must display its current registration decal and carry the certificate on board.
  - C. ATV or UTV registered in another state are required to display a valid Iowa DNR User Permit in addition to displaying a current registration decal and carrying the certificate on board.
5. Exempt Vehicles. Registration shall not be required for:
- A. ATV and/or UTV used exclusively as farm implements.
  - B. An ATV or UTV owned by United States, the State of Iowa, or another State, or by a governmental subdivision thereof, and used for enforcement, search and rescue, or official purposes, but not for recreational or commercial purposes.
  - C. ATVs used in accordance with Iowa Code § 321.234A(1)(a).

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

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.  
*(Code of Iowa, Sec. 321G.9[4a])*
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:
  - A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period 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 the following occur:
    - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing.
    - (2) The snowmobile is brought to a complete stop before crossing the street.
    - (3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and

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

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

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

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

4. Trails. Snowmobiles shall not be operated on ATV trails except where so designated.

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

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

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

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

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

**75.06 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

**75.07 PENALTIES.** Violation of the ordinance shall constitute a simple misdemeanor punishable by a fine of \$105.00 to \$855.00, plus the applicable court surcharge and costs and/or up to thirty (30) days in jail as set forth in Iowa Code § 903.1(1)(a). Any amendments to the simple misdemeanor penalties of Iowa Code § 903.1(1)(a) shall be automatically incorporated into this section without the need of amending this ordinance.

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

**75.08 SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be judged 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.

**75.09 EFFECTIVE DATE.** The ordinance shall become effective upon its passage and publication pursuant to Iowa Code § 380.6(1)(a).

**75.10 PARKING RESTRICTED – APPENDIX A.**

1. ATV/UTVs are not allowed to park on Greene Street from Rowley Street to Dows Street.

*(Ch. 75 – Ord. 347 – Jun. 21 Supp.)*



## CHAPTER 76

# BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

**76.04 TWO ABREAST LIMIT.** Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

**76.05 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 or skateboard 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 or skateboards thereon by any person, no person shall disobey the signs.

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

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

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

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

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

**76.12 PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 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 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.** The scheduled fine for bicyclist or skateboarders violating these regulations is twenty-five dollars (\$25.00). In lieu of the scheduled fine for bicyclists or skateboarders or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle or skateboard 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.

[The next page is 381]

## 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

80.10 Reclamation of Abandoned Vehicles

**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. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

**80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority’s initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

**80.03 NOTICE BY MAIL.** The police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than twenty (20) days, after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle. Notice shall be deemed given when mailed. The notice shall include all the following: the year, make, model and vehicle identification number of the vehicle, the location of the facility where the vehicle is being held, and information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within ten (10) days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to *Code of Iowa*, Chapter 321, Section 321.89, Subsection 3. A statement 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. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a

public auction or dispose of the vehicle to a demolisher, and to dispose of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal 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 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])*

*(Ord. 357 – Oct. 21 Supp.)*

**80.04 NOTIFICATION IN NEWSPAPER.** If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

*(Ord. 357 – Oct. 21 Supp.)*

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

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder or claimant shall pay three dollars (\$3.00) if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

**80.06 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])*

**80.10 RECLAMATION OF ABANDONED VEHICLES.** Prior to driving an abandoned vehicle away from the premises, a person who received or who is reclaiming the vehicle of behalf of a person who received notice under Section 80.03 or 80.04 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in *Code of Iowa, Section 321.20B. (Ord. 357 – Oct. 21 Supp.)*

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

[The next page is 395]



## CHAPTER 90

# WATER SERVICE SYSTEM

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

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

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

**90.02 PUBLIC WORKS DIRECTOR'S DUTIES.** The Public Works Director 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 Public Works Director 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 Public Works Director 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 occupancy, employment 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. *(Ord. 365 – Jun. 22 Supp.)*

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

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

**90.06 FEE FOR PERMIT.** A permit fee as set forth in the Schedule of Fees must accompany the application upon submission to the City. *(Ord. 323 – Dec. 15 Supp.)*

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

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

**90.09 EXCAVATIONS.** All trench work, excavation and backfilling required in making a connection shall be performed in accordance with 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 Public Works Director and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Public Works Director and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Public Works Director shall order. All taps in the mains shall be made in the top half 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 Stop. A brass corporation stop, of the pattern and weight approved by the Public Works Director, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Public Works Director in such form as the Public Works Director shall require.

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

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

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

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

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

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

**90.16 INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Public Works Director before they are covered, and the Public Works Director shall keep a record of such approvals. If the Public Works Director 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 Public Works Director 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 City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

**90.18 SHUTTING OFF WATER SUPPLY.** The Public Works Director 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 Public Works Director has ordered the water to be turned on.

**90.19 OPERATION OF CURB VALVE AND HYDRANTS.** It is unlawful for any person except the Public Works Director to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

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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

91.09 Meter Installation Fee

91.10 Accuracy Test

**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by the City.

**91.03 FIRE SPRINKLER SYSTEMS – EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Public Works Director. 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 a globe-type valve on the discharge side of the meter. Meter pits may be used only upon approval of the Public Works Director and shall be of a design and construction approved by the Public Works Director.

**91.06 METER COSTS.** The full cost of any meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City.

**91.07 METER REPAIRS.** Whenever a water meter is found to be out of order the Public Works Director shall have it repaired or replaced. 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 or replacement.

**91.08 RIGHT OF ENTRY.** The Public Works Director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

**91.09 METER INSTALLATION FEE.** The property owner shall pay an installation fee of sixty dollars (\$60.00) for each new installation of a water meter. Such meter is the property of the City.

**91.10 ACCURACY TEST.** The Public Works Director shall make a test of the accuracy of any water meter at any time when requested in writing, but not more often than once in 18 months. Such request shall be accompanied by a refundable deposit of twenty-five dollars (\$25.00) guaranteeing payment of costs if found due. If the meter is found to overrun to the extent of two percent (2%) or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not for longer than 30 months, plus the meter test deposit. If the meter is found to be accurate or slow, or less than 2% fast, the customer deposit shall be forfeited as the reasonable costs of the test, and the customer shall be liable for any deficiency over 2% up to 30 months.



## CHAPTER 92

# WATER RATES

92.01 Service Charges	92.09 Lien for Nonpayment
92.02 Rates For Service	92.10 Lien Exemption
92.03 Rates Outside the City	92.11 Lien Notice
92.04 Billing for Water Service	92.12 Temporary Vacancy
92.05 Customer Deposits	92.13 Broken Meter
92.06 Service Discontinued	92.14 Customer Moving From Premises
92.07 Payment Agreement	92.15 Effective Date of Water Rate Increase
92.08 Property Owner Responsibility/City Responsibility	

**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. Minimum Rate – First 1,500 gallons – \$35.75.
2. All over 1,500 gallons (per thousand) – \$8.00.<sup>†</sup>  
*(Section 92.02 – Ord. 370 – Mar. 24 Supp.)*

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 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. The City of Walker Public Works Technician or other qualified representative shall read all water meters during the last

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<sup>†</sup> **EDITOR'S NOTE:** The rates added with Ord. No. 370 are effective July 1, 2024. Prior to July 1, 2024, the rates are: Minimum Rate of \$34.25 and \$8.00 per every 1,000 gallons over 1,500 gallons.

three (3) business days of each month. The City Clerk shall process the information and prepare and mail bills on or before the third (3<sup>rd</sup>) business day of each month.

2. Bills Issued. The Clerk shall prepare, date and issue bills for combined service accounts and bills shall be deemed issued as of the date indicated on the bills.

3. Bills Payable. All bills for water and sewer service will be due and payable at the office of the City Clerk by the 20<sup>th</sup> of the month. Bills not paid by the due date shall be considered delinquent. Bills are not prorated for partial months of occupancy. *(Ord. 370 – Mar. 24 Supp.)*

4. Late Payment Penalty. A late payment penalty of five percent (5%) of the amount due shall be added to each delinquent bill.

**92.05 CUSTOMER DEPOSITS.** Customer deposits are required of all customers. Such deposit shall be one hundred fifty dollars (\$150.00) for every new account or new address (including existing customers moving to a new address). The City Clerk will issue a receipt of deposit to each customer from whom a deposit is received. The deposit will not be returned until all forms of payments have cleared and the City of Walker has full remittance of any monies owed. The deposit may be applied to the final bill if desired by the customer, and if the final billing amount is less than the deposit on file.†

*(Code of Iowa, Sec. 384.84)*

*(Ord. 350 – Jun. 21 Supp.)*

**92.06 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The City Clerk on the next business day after the 20<sup>th</sup> of each month shall notify each delinquent customer that service will be discontinued on the last day of the month if payment including late payment charges is not received. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred. The notice shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance of service. Customer will pay the seventy-five dollar (\$75.00) fee under Subsection 5, when a shut-off notice is posted.

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† **EDITOR'S NOTE:** The ordinance adopting a change in customer deposits was adopted on May 10, 2021 with an effective date of July 1, 2021.

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. A request for a hearing must be made in writing to the City Clerk within three (3) business days from the date of the notice. The hearing will be conducted in accordance with procedures established by the Mayor. The Mayor shall make a determination as to whether the disconnection is justified. The disconnection shall proceed unless all amounts owed along with all penalties are paid in full.
4. Shut Off Date. The shut off date will not fall on a Friday or a holiday, so as to avoid interruption of service over the weekend or a holiday. At no time shall the Public Works Technician grant an extension or accept payment from the customer whose service is discontinued as in accordance with subsection 1.
5. Fees. A fee of seventy-five dollars (\$75.00) shall be charged before service is restored to a delinquent customer. Said fee shall be paid to the Clerk during normal business hours. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.
6. Payment. Payments must be made before noon during regular City Hall business hours in order for service to be restored that day. If payment is not received in the City Clerk's office by noon, water service will remain off until the following business day. Reconnection will not be made on weekends or holidays.

**92.07 PAYMENT AGREEMENT.** If a customer is unable to pay a past-due bill in full, the customer can request a payment plan. All payments plans must be signed by the Mayor. Payment plans will not exceed four (4) months in length, with the delinquent amount paid in four (4) equal installments, and beginning within thirty (30) days of the date the agreement was signed. In addition, the customer must agree to pay each new bill as it comes due. Five (5%) percent interest will be added to all unpaid amounts. All agreements will be put in writing and signed by all parties involved.

**92.08 PROPERTY OWNER RESPONSIBILITY/CITY RESPONSIBILITY.** The owner of a property which receives water service shall be responsible for the payment of all charges, penalties, and fees associated with the provision of water service for such property. Rental property would be exempted from this section if the landlord notified the City in writing that the tenants are responsible for all charges, penalties and fees.

*(Code of Iowa, Sec. 384.84)*

All property owners (rental or otherwise) shall be responsible for the costs of maintenance or repair to the water system from the water main to the meter and any of the system past the water meter. Refer to Chapter 90 Section 90.12 Responsibility for Water Service Pipe.

The City shall be responsible for the costs of maintenance or repair to the water system mains as stated in Chapter 90.

**92.09 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)*

**92.10 LIEN EXEMPTION.** The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

*(Code of Iowa, Sec. 384.84)*

**92.11 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 thirty (30) days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**92.12 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be

a twenty-five dollar (\$25.00) fee collected for shutting the water off at the curb valve and a twenty-five dollar (\$25.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

**92.13 BROKEN METER.** Any customer not notifying the City in writing of a broken meter may be charged a seventy-five dollar (\$75.00) penalty for each billing cycle the meter remains inoperable. Any customer tampering with or altering the readings, by-passing the meters or taking any other action to cause an improper reading shall be guilty of a simple misdemeanor. Water service will be discontinued until any deficiency is corrected and all penalties and costs have been paid in full. No payment plans or exceptions will be made. All remedies are cumulative and not exclusive. Remedies include but are not limited to filing an action for a municipal infraction under Iowa Code Section 364.22. The City may also pursue any other remedy available to it to correct any noncompliance or defect, collect any amounts owed and to collect any penalties and costs.

**92.14 CUSTOMER MOVING FROM PREMISES.** Any customer who moves without notifying the Clerk will be responsible for the water usage until it is reported. All residents moving will have the water meter read by the Public Works Technician and the water will be shut off at the curb valve at that time. Anyone not reporting to the Clerk a change of residence is subject to a seventy-five dollar (\$75.00) for improper notification. The water will be turned on again when the new resident makes a water deposit.

*(Ch. 92 – Ord. 315 – July 14 Supp.)*

**92.15 EFFECTIVE DATE OF WATER RATE INCREASE.** This ordinance<sup>†</sup> shall in effect July 1, 2024, and thereafter.

*(Section 92.15 – Ord. 370. – Mar. 24 Supp.)*

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<sup>†</sup> **EDITOR'S NOTE:** The ordinance referenced here is Ordinance No. 370 adopted March 11, 2024.

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## CHAPTER 93

# WATER LINE EXTENSIONS

93.01 Purpose

93.02 Definitions

93.03 Construction by City

93.04 Construction by Owner

93.05 Connection Charge

93.06 Rights of City

**93.01 PURPOSE.** The purpose of this chapter is to provide a means and method for the extension of water mains to serve property not served by an existing water line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

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

1. “Builder” means the owner of land who causes a water main to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.
2. “Estimated cost” means a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, the materials to be used or installation methods, the determination of the Council shall be final and conclusive.

**93.03 CONSTRUCTION BY CITY.** An owner of land abutting or adjoining a property or a public street where no water main has been installed may make application to the Council for the installation of a water main along such property and in the street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the total estimated cost of the installation from the point where the water main is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts an adjoining property or the public street, shall be submitted to the Council.
2. Construction. Upon receipt of the deposit, the City shall construct the water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the

builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder's real estate. In the written request for installation of the water main, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Maximum Cost. The additional cost of installation, as contemplated in subsections 3 and 4 above, shall not exceed one hundred ten percent (110%) of the estimated cost.

6. Connecting Property. The expense of connecting the property of the builder to the water main shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

**93.04 CONSTRUCTION BY OWNER.** In the event an owner of land abutting or adjoining a property or public street in which no water main has been previously installed desires to construct said water main at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a water main, in accordance with the following:

1. City Supervision. The installation of such a water main by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the property or street, and the bond shall guarantee the installation of the water main in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to public property incurred in the installation, and shall



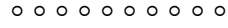
further hold the City harmless for any and all other damages arising from the installation of the water main.

3. Ownership of Water Main. After the water main has been installed, it shall become the property of the City.

4. Cost Approval. For purposes of determining connection charges under Section 93.05 below, costs incurred by the owner shall be certified by the City and only so much of said costs as are approved by the City shall be used in determining connection charges as provided hereafter.

**93.05 CONNECTION CHARGE.** Following the installation of an extension to the water system under the provisions of this chapter, there shall be paid to the City a connection charge in an amount equal to one-half ( $\frac{1}{2}$ ) the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such water main. Such connection charge shall be paid to the City prior to making any connection to said water main.

**93.06 RIGHTS OF CITY.** All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.



## CHAPTER 94

# PUBLIC WATER SUPPLY SOURCE WATER PROTECTION REGULATIONS

94.01 Definitions	94.07 Exceptions
94.02 Substances Regulated	94.08 Determination of Locations Within Zones
94.03 Maps of Zones of Protection	94.09 Enforcement and Penalties
94.04 Restrictions Within the Primary Protection Zone	94.10 Inspections
94.05 Restrictions Within the Secondary Protection Zone	94.11 Notice of Violation and Hearing
94.06 Restrictions Within the Zone of Sensitivity	94.12 Injunctive Relief

### 94.01 DEFINITIONS.

1. “Aquifer” means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. “Alluvium” means sand, clay, etc., gradually deposited by moving water.
3. “Contamination” means the presence of any harmful or deleterious substances in the water supply.
4. “Groundwater” means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
5. “Hazardous substances” means those materials specified in Section 94.02 of this chapter.
6. “Flow system boundaries” means a delineation criterion that uses groundwater divides, surface water bodies, or other hydrologic/physical features to delineate a source water protection area.
7. “Labeled quantities” means the maximum quantity of chemicals as recommended on the label, for specific applications.
8. “Person” means any natural person, individual, public, or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
9. “Petroleum product” means fuels (gasoline, diesel fuel, kerosene, and mixtures of those products), lubricating oils, motor oils, hydraulic fluids, and other similar products.
10. “Pollution” means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH,

turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

11. “Potable water” means water that is satisfactory for drinking, culinary, and domestic purposes, meeting current drinking water standards.

12. “Primary containment” means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

13. “Public utility” means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.

14. “Secondary containment” means the level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

15. “Shallow well” means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.

16. “Time-related capture zone” means the surface or subsurface area surrounding a pumping well that will supply groundwater recharge to the well within some specified period of time.

17. “Toxic substance” means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption into the body.

18. “Transit” means the act or process of passing through the source water protection zones, where the vehicle in transit may be parked (within the source water protection area) for a period not to exceed two (2) hours.

19. “Water pollution” means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.

20. “Well,” means a pit or hole sunk into the earth to reach a resource supply such as water.

21. “Well field” means a tract of land that contains a number of wells for supplying water.

22. “Source water protection zones” means zones delineated by fixed radii criterion around drinking water sources, within which toxic substances will be regulated to protect the quality of the underground resource.

23. “Zone of contribution” means the area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

**94.02 SUBSTANCES REGULATED.** The materials regulated by this chapter are the following:

1. Substances listed in the Code of Federal Regulations, 40 CFR Section 302.4, Designation of Hazardous Substances.
2. Substances listed by the Iowa Labor Commissioner pursuant to Chapter 89B of the *Code of Iowa (Hazardous Chemicals Risks – Right to Know Act)*.
3. Substances listed in 40 CFR Part 261, Subparts A, B, C and D, the Federal Hazardous Waste List.

**94.03 MAPS OF ZONES OF PROTECTION.**

1. Maps. Zones of protection maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file in City Hall. The location of all wells in the City supplying potable water to the City water system are shown on the official Source Water Protection Map with primary zones, secondary zones, and zones of sensitivity indicated.

2. Map Maintenance. The zones of protection maps may be updated on an annual basis. The reasons for such an update may include, but are not limited to, the following:
  - A. Changes in the technical knowledge concerning the aquifer.
  - B. Changes in permitted pumping capacity of City wells.
  - C. Additions of wells or elimination of existing wells.
  - D. Designation of new well fields.
3. Source Water Protection Zones. The zones of protection indicated on the zones of protection maps are as follows:
  - A. Primary protection zone – an area within the two-year time-related capture zone of any well supplying potable water to the City water system.
  - B. Secondary protection zone – an area within the five-year time-related capture zone, extending the primary protection zones, of any well supplying potable water to the City water system.
  - C. Zone of sensitivity – the area within the ten-year time-related capture zone, excluding the primary and secondary protection zones, from any well supplying potable water to the City water system.

#### **94.04 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.**

1. Permitted Uses. The following uses are permitted uses within the primary protection zone. Uses not listed are to be considered prohibited.
  - A. Industrial buildings within Gowrie, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa DNR *Separation Distance for Wells*, included at the end of this chapter as Table A, and as modified under *Code of Iowa* as 567 IAC 43.3(7), Table A, Separation Distances, or its replacement, is complied with.
  - B. Playgrounds/parks.
  - C. Wildlife areas, open spaces.
  - D. Lawns and gardens.
  - E. Non-motorized trails, such as biking, skiing, nature, and fitness trails.

2. Additional Restrictions. Additional restrictions are as follows:
  - A. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the primary protection zone. Any person knowing or having evidence of a discharge shall report such information to the Source Water Protection Officer.
  - B. Any person responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs and may be subject to fines as specified in this chapter.
  - C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the primary protection zone. Any person knowing or having evidence of a discharge shall report such information to the Source Water Protection Officer.

#### **94.05 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.**

1. Permitted Uses. The following uses are permitted in the secondary protection zone. Uses not listed are to be considered prohibited.
  - A. All uses listed as permitted in the primary protection zone.
  - B. Sewer – residential and commercial.
  - C. Above ground storage tanks when in compliance with the State Fire Marshal’s regulations.
  - D. Basement storage tanks.
  - E. Livestock grazing and field cropping activities.
2. Additional Restrictions. Additional restrictions are as follows:
  - A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the secondary protection zone. Any person knowing or having evidence of a discharge shall report such information to the Sop Protection Officer.
  - B. Any person responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, any may be subject to fines specified in this chapter.

C. Any person who stores, handles, produces, or uses chemicals within the secondary protection zone shall make available the relevant MSDS sheets to the Source Water Protection Officer regardless of said person's status under Section 94.07(4).

#### **94.06 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY.**

1. Permitted Uses. The following uses are permitted in the zone of sensitivity. Uses not listed are to be considered prohibited.
  - A. All uses listed as permitted in the primary protection zone.
  - B. All uses listed as permitted in the secondary protection zone.
  - C. All uses, handling and storage, when in compliance with, and allowed by, federal, State, and local laws and regulations.
2. Additional Restrictions. Additional restrictions are as follows:
  - A. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the zone of sensitivity.
  - B. Any person responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs and may be subject to fines as specified in this chapter.

#### **94.07 EXCEPTIONS.**

1. The following activities or uses are exempt from the provisions of this chapter:
  - A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
  - B. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
  - C. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
  - D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the secondary protection zone and the zone of sensitivity.



- E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
  - F. Consumer products located in the home which are used for personal, family, or household purposes.
  - G. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
  - H. The use of water treatment chemicals connected with the operation of the well or plant.
2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter<sup>†</sup> may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of said ordinance unless exemption is granted by the City Council.
3. Any person who engages in nonresidential activities relating to the storage, handling, use, and/or production of any toxic or hazardous substances and who is exempt from this chapter by law shall not be subject to the restrictions contained herein.
4. All requests for permits or special exceptions in the Gowrie Source Water Protection Area must be made in writing to the City Council. All requests must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

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<sup>†</sup> **EDITOR'S NOTE:** Chapter 94 was adopted by Ordinance No. 364 on June 13, 2022.

**94.08 DETERMINATION OF LOCATIONS WITHIN ZONES.**

1. In determining the location of properties within the zones depicted on the zone of protection maps, the following rules shall apply:
  - A. Properties located wholly within one zone, as reflected on the applicable zone of protection map, shall be governed by the restrictions applicable to that zone.
  - B. For properties having parts lying within more than one zone, as reflected on the applicable zone of protection map, each part shall be governed by the restrictions applicable to the zone in which it is located.

**94.09 ENFORCEMENT AND PENALTIES.**

1. The Water Superintendent is designated as the Source Water Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this chapter.
2. The Source Water Protection Inspector shall be the Water Superintendent.
3. No building permit shall be issued which is a violation of the Iowa DNR *Separation Distance from Wells*, included at the end of this chapter as Table A, a violation of this chapter, or a source of contamination for a City well.
4. No new underground tanks will be allowed for auxiliary fuel storage in the primary or secondary zones.
5. Any person, firm, or corporation who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided therein.

**94.10 INSPECTIONS.**

1. The Source Water Protection Inspector shall have the power and authority to enter and inspect all buildings, structures, and land within all well source water protection zones for the purpose of inspecting. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the protection officer or inspector to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon

any open or unsecured portion of the premises in order to conduct an inspection thereof.

3. The Source Water Protection Officer or Inspector shall inspect each City well annually and shall maintain an inventory, if applicable, of all hazardous substances that exist within the primary, secondary, and zone of sensitivity protection zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the inspector as under Section 94.07(4).

**94.11 NOTICE OF VIOLATION AND HEARING.** Whenever an officer or an inspector determines that there is a violation of this chapter, said official shall give notice thereof in the manner hereinafter provided.

1. A notice of violation shall:
  - A. Be in writing.
  - B. Be dated and signed by the officer or inspector.
  - C. Specify the violation or violations.
  - D. State that said violations shall be corrected within ten (10) days of the date on which the inspector issued the notice of violation.

2, Failure of the responsible person to correct the violation within ten (10) days of the date of issue of the notice of violation shall result in the following fines:

- |    |                                 |    |           |
|----|---------------------------------|----|-----------|
| A. | First notice of violation ..... | \$ | 1,000.00  |
| B. | Second notice of violation..... | \$ | 5,000.00  |
| C. | Third notice of violation.....  | \$ | 10,000.00 |

**94.12 INJUNCTIVE RELIEF.** If any person who engages in nonresidential activities stores, handles, uses, and/or produces within the source water protection zones, as indicated on the Zone of Protection Maps, continues to operate in violation of the provisions of this chapter, then the City may file an action for injunctive relief in the court of jurisdiction.

**TABLE A  
SEPARATION DISTANCES**

Source of Contamination	REQUIRED MINIMUM DISTANCE FROM WELL	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
<b>WASTEWATER STRUCTURES:</b>		
<b>Point of Discharge to Ground Surface</b>		
Sanitary and industrial discharges	400 feet	400 feet
Water treatment plant wastes	50 feet	50 feet
Well house floor drains	5 feet	5 feet
<b>Sewers and Drains<sup>2</sup></b>		
Sanitary and storm sewers, drains	0-25 feet: prohibited 25-75 feet of water main pipe 75-200 feet of sanitary sewer pipe	0-25 feet: prohibited 25-75 feet of water main pipe 75-200 feet of sanitary sewer main pipe
Sewer force mains	0-75 feet: prohibited 75-400 feet of water main pipe 400-1,000 feet of sanitary sewer pipe	0-75 feet: prohibited 75-400 feet of water main pipe 400-1,000 feet of sanitary sewer main pipe
Water plant treatment process wastes that are treated on site	0-5 feet: prohibited 5-50 feet of sanitary sewer pipe	0-5 feet: prohibited 5-50 feet of sanitary sewer main pipe
Water plant wastes to sanitary sewer	0-25 feet: prohibited 25-75 feet of water main pipe 75-200 feet of sanitary sewer pipe	0-25 feet: prohibited 25-75 feet of water main pipe 75-200 feet of sanitary sewer main pipe
Well house floor drains to sewers	0-25 feet: prohibited 25-75 feet of water main pipe 75-200 feet of sanitary sewer pipe	0-25 feet: prohibited 25-75 feet of water main pipe 75-200 feet of sanitary sewer main pipe
Well house floor drains to surface	0-5 feet: prohibited 5-50 feet of sanitary sewer pipe	0-5 feet: prohibited 5-50 feet of sanitary sewer main pipe
<b>Land Disposal of Treated Wastes</b>		
Irrigation of wastewater	200 feet	400 feet
Land application of solid wastes <sup>3</sup>	200 feet	400 feet
<b>Other</b>		
Cesspools and earth pit privies	200 feet	400 feet
Concrete vaults and septic tanks	100 feet	200 feet
Lagoons	400 feet	1,000 feet
Mechanical wastewater treatment plants	200 feet	400 feet
Soil absorption fields	200 feet	400 feet
<b>CHEMICALS:</b>		
Chemical application to ground surface	100 feet	200 feet
Chemical and mineral storage above ground	100 feet	200 feet
Chemical and mineral storage on or under ground	200 feet	400 feet
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200 feet	400 feet
<b>ANIMALS:</b>		
Animal pasturage	50 feet	50 feet
Animal enclosure	200 feet	400 feet
Earthen silage storage trench or pit	100 feet	200 feet
<b>Animal Wastes</b>		
Land application of liquid or slurry	200 feet	400 feet
Land application of solids	200 feet	400 feet
Solid's stockpile	200 feet	400 feet
Storage basin or lagoon	400 feet	1,000 feet
Storage tank	200 feet	400 feet
<b>MISCELLANEOUS:</b>		
Basements, pits, sumps	10 feet	10 feet
Cemeteries	200 feet	200 feet
Cisterns	50 feet	100 feet
Flowing streams or other surface water bodies	50 feet	50 feet
Railroads	100 feet	200 feet
Private wells	200 feet	400 feet
Solid waste landfills and disposal sites <sup>4</sup>	1,000 feet	1,000 feet

- 1 Deep and shallow wells, as defined in 567 IAC 40.2(455B). A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which the water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which the water is to be drawn.
- 2 The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.
- 3 Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.
- 4 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.

*(Ch. 94 – Ord. 364 – Jun. 22 Supp.)*

[The next page is 421]

## CHAPTER 95

### SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Public Works Director

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste 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 four or fewer dwelling units or other facilities 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 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. “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.
23. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 PUBLIC WORKS DIRECTOR.** The Public Works Director 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 Public Works Director.
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 or use, 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 sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

*(Ord. 366 – Jun. 22 Supp.)*

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

*(IAC, 567-69.1[3])*

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

**95.07 RIGHT OF ENTRY.** The Public Works Director 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 Public Works Director or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**95.08 USE OF EASEMENTS.** The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**95.09 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

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## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Permit Fee and Connection Charge  
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 AND CONNECTION CHARGE.** A permit fee and/or connection charge as set forth in the Schedule of Fees must accompany the application upon submission to the City. *(Ord. 324 – Dec. 15 Supp.)*

**96.03 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

**96.04 EXCAVATIONS.** All 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 Public Works Director 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 Public Works Director, to meet all requirements of this chapter.

2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the State Plumbing Code, 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 Public Works Director 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 to meet the following:

A. Recommended grade at one-fourth ( $\frac{1}{4}$ ) inch per foot.

B. Minimum grade of one-eighth ( $\frac{1}{8}$ ) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Public Works Director and shall be made only with approved fittings.

7. **Depth.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. **Sewage Lifts.** In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried

by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the State Plumbing Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Public Works Director. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (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 Public Works Director. 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 Public Works Director, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the State Plumbing Code, to be approved by the Public Works Director, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Public Works Director. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Public Works Director and in accordance with the Public Works Director'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 Public Works Director. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Public Works Director shall be notified and the Public Works Director 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 Public Works Director 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 Public Works Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Public Works Director, 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 Public Works Director 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 B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Public Works Director. Where necessary in the opinion of the Public Works Director, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) 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 Public Works Director 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 Public Works Director as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director 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 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director, 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 Public Works Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

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## CHAPTER 98

### ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited  
98.02 When Required  
98.03 Compliance with Regulations  
98.04 Permit Required

98.05 Discharge Restrictions  
98.06 Maintenance of System  
98.07 Systems Abandoned  
98.08 Disposal of Septage

**98.01 WHEN PROHIBITED.** Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

**98.02 WHEN REQUIRED.** When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

*(IAC, 567-69.1[3])*

**98.03 COMPLIANCE WITH REGULATIONS.** The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

*(IAC, 567-69.1[3 & 4])*

**98.04 PERMIT REQUIRED.** No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

**98.05 DISCHARGE RESTRICTIONS.** It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

*(IAC, 567-69.1[3])*

**98.06 MAINTENANCE OF SYSTEM.** The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

**98.07 SYSTEMS ABANDONED.** At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

**98.08 DISPOSAL OF SEPTAGE.** No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

## 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 Deposit

99.08 Special Agreements Permitted

99.09 Unoccupied or Destroyed Buildings

99.10 Effective Date

**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 services charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed at the following monthly rate:

1. Minimum Rate – First 1,500 gallons – \$60.50.

2. All over 1,500 gallons (per thousand) – \$15.00.<sup>†</sup>

*(Section 99.02 – Ord. 371 – Mar. 24 Supp.)*

**99.03 SPECIAL RATES.** Where, in the judgment of the Public Works Technician and 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 of the customer, a special rate shall be proposed by the Public Works Technician and submitted to the Council for approval by resolution.

*(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's metering system. The meter shall be installed at the customer's expense.

*(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 92.06 if the combined service account becomes delinquent, and the provisions contained in Section 92.09 relating to lien

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<sup>†</sup> **EDITOR'S NOTE:** The rates added with Ord. No. 371 are effective July 1, 2024. Prior to July 1, 2024, the rates are: Minimum Rate of \$57.00 and \$15.00 per every 1,000 gallons over 1,500 gallons.

notices shall also apply in the event of a delinquent account. Bills are not prorated for partial months of occupancy. *(Ord. 371 – Mar. 24 Supp.)*

**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 DEPOSIT.** Customer deposits are required of all customers. Such deposit shall be one hundred fifty dollars (\$150.00) for every new account or new address (including existing customers moving to a new address). The City Clerk will issue a receipt of deposit to each customer from whom a deposit is received. The deposit will not be returned until all forms of payments have cleared and the City of Walker has full remittance of any monies owed. The deposit may be applied to the final bill if desired by the customer, and if the final billing amount is less than the deposit on file.

*(Code of Iowa, Sec. 384.84)*

*(Ord. 351 – Jun. 21 Supp.)*

**99.08 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

**99.09 UNOCCUPIED OR DESTROYED BUILDINGS.** If a building is no longer occupied, used, or inhabited in any way for any purpose whatsoever, or the building has been destroyed and the structure has been razed, no connection to the public sewer system shall be required of that property. The minimum monthly service charge will not be required of the property if the sewer service line has been disconnected and capped at the property line under the direct supervision of the Public Works Department of the City of Walker.

*(Ord. 369 – Jul. 23 Supp.)*

**99.10 EFFECTIVE DATE.** The ordinance<sup>†</sup> shall become effective July 1, 2024, upon its passage and publication pursuant to Iowa Code § 380.6(1)(a).

*(Section 99.10 – Ord. 371 – Mar. 24 Supp.)*

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<sup>†</sup> **EDITOR'S NOTE:** The ordinance referenced here is Ordinance No. 371 adopted March 11, 2024.

## CHAPTER 100

### SEWER EXTENSIONS

100.01 Purpose

100.02 Definition

100.03 Construction by City

100.04 Construction by Owner

100.05 Others Required to Connect

100.06 Connection Charge

100.07 Building Sewers Installed

**100.01 PURPOSE.** The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

**100.02 DEFINITION.** For the purpose of this chapter, “builder” means the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

**100.03 CONSTRUCTION BY CITY.** An owner of land abutting or adjoining a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts the said public street, shall be submitted to the Council.
2. Construction. Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. Additional Costs. In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the sanitary sewer, the landowner shall waive all

objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Connecting Property. The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

**100.04 CONSTRUCTION BY OWNER.** In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct said sewer at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a sewer, in accordance with the following:

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the sewer in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the sanitary sewer.

3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

**100.05 OTHERS REQUIRED TO CONNECT.** Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect any sewage generating facilities into said sanitary sewer, as required by Chapter 95.

**100.06 CONNECTION CHARGE.** Following the installation of an extension to the sewer system under the provisions of this chapter, there shall

be paid to the City a connection charge in an amount equal to one-half (½) of the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such sanitary sewer. Such connection charge shall be paid to the City prior to making any connection to said sewer system.

**100.07 BUILDING SEWERS INSTALLED.** Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party, shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installation.

[The next page is 461]



## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose  
105.02 Definitions  
105.03 Sanitary Disposal Required  
105.04 Health and Fire Hazard  
105.05 Open Burning Restricted  
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited  
105.08 Open Dumping Prohibited  
105.09 Toxic and Hazardous Waste  
105.10 Waste Storage Containers  
105.11 Prohibited Practices

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1. “Collection site” means the area designated by the City where citizens may take leaves and yard waste.
2. “Collector” means any person authorized to gather solid waste from public and private places.
3. “Discard” means to place, cause to be placed, throw, deposit or drop.

*(Code of Iowa, Sec. 455B.361[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.

11. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

*(IAC, 567-20.2[455B])*

12. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

*(IAC, 567-100.2)*

13. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

*(IAC, 567-100.2)*

14. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

*(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 “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.

*(Code of Iowa, Sec. 455B.301)*

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

**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 except as follows.

- 1. In compliance with the Linn County Open Burning Guidelines, including having an official burn permit from Linn County in your possession:

- A. With the exception of burn barrels as prohibited in Section 105.11.

*(Ord. 332 – Jan. 17 Supp.)*

**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 on the premises or by the

City at the City collection site. The City may burn yard waste at the collection site as dictated by the Open Burning Regulations adopted by Linn County. 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 of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

*(Code of Iowa, Sec. 455B.301, 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 of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste 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, 567-102.13[2] and 400-27.14[2])*

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

**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.
5. Barrel Burning. Burn any materials in a burn barrel.

*(Ch. 105 – Ord. 320 – Mar. 15 Supp.)*

## CHAPTER 106

### COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading

106.04 Frequency of Collection  
106.05 Bulky Rubbish  
106.06 Right of Entry

**106.01 COLLECTION SERVICE.** The collection of solid waste within the City shall be by a Municipal Refuse Collection Agreement with Rudd Sanitation.  
*(Ord. 341 – Oct. 18 Supp.)*

**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.

[The next page is 485]



## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Franchise Granted  
110.02 Mains and Pipes; Indemnification  
110.03 Excavations  
110.04 Construction and Maintenance  
110.05 Service Requirements

110.06 Nonexclusive  
110.07 Franchise Fee  
110.08 Term of Franchise  
110.09 Entire Agreement

**110.01 FRANCHISE GRANTED** There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of the ordinance codified by this chapter,<sup>†</sup> to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term “gas” as used in this franchise shall be construed to mean natural gas only.

**110.02 MAINS AND PIPES; INDEMNIFICATION.** The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

**110.03 EXCAVATIONS.** In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 298 adopting a gas franchise for the City was passed and adopted by the Council on June 14, 2010.

**110.04 CONSTRUCTION AND MAINTENANCE.** The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

**110.05 SERVICE REQUIREMENTS.** Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

**110.06 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**110.07 FRANCHISE FEE.**

1. Collection. There is hereby imposed a franchise fee of one percent (1%) upon the gross revenue generated from sales of natural gas by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

*(Ord. 330 – Jan. 17 Supp.)*

2. Fees Remitted to City. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on

or before the last business day of the month following each calendar year quarter. *(Ord. 330 – Jan. 17 Supp.)*

3. Obligations. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information. *(Ord. 330 – Jan. 17 Supp.)*

4. Annexation. **(Repealed by Ordinance No. 330 – Jan. 17 Supp.)**

5. Utility Bill. **(Repealed by Ordinance No. 330 – Jan. 17 Supp.)**

6. Fees Remitted to City. **(Repealed by Ordinance No. 330 – Jan. 17 Supp.)**

7. Franchise Fee in Lieu of Other Payments. Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the said City for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license or rental charge during the entire term of this franchise.

**110.08 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of twenty-five (25) years from the after its acceptance by the Company, as herein provided.

**110.09 ENTIRE AGREEMENT.** This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

[The next page is 491]

## CHAPTER 111

# ELECTRIC FRANCHISE

111.01 Grant of Franchise  
111.02 Placement of Appliances  
111.03 Excavations  
111.04 Construction and Maintenance  
111.05 Installation of Meters  
111.06 Standard of Service

111.07 Nonexclusive Franchise  
111.08 Uninterrupted Service  
111.09 Franchise Fee  
111.10 Term of Franchise  
111.11 Entire Agreement

**111.01 GRANT OF FRANCHISE.** There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the City to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years;<sup>†</sup> also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

**111.02 PLACEMENT OF APPLIANCES.** The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**111.03 EXCAVATIONS.** In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials,

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 297 adopting an electric franchise for the City was passed and adopted on June 14, 2010.

restoring the condition as nearly as practical and if defects are caused shall repair the same.

**111.04 CONSTRUCTION AND MAINTENANCE.** The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

**111.05 INSTALLATION OF METERS.** The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

**111.06 STANDARD OF SERVICE.** The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

**111.07 NONEXCLUSIVE FRANCHISE.** The franchise granted by this chapter shall not be exclusive.

**111.08 UNINTERRUPTED SERVICE.** Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

**111.09 FRANCHISE FEE.**

1. Collection. There is hereby imposed a franchise fee of one percent (1%) upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

*(Ord. 331 – Jan. 17 Supp.)*

2. Fees Remitted to City. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

*(Ord. 331 – Jan. 17 Supp.)*

3. Obligations. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

*(Ord. 331 – Jan. 17 Supp.)*

4. Annexation. **(Repealed by Ordinance No. 331 – Jan. 17 Supp.)**

5. Utility Bill. **(Repealed by Ordinance No. 331 – Jan. 17 Supp.)**

6. Fees Remitted to City. **(Repealed by Ordinance No. 331 – Jan. 17 Supp.)**

7. Franchise Fee in Lieu of Other Payments. Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of the franchise.

**111.10 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of

twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

**111.11 ENTIRE AGREEMENT.** This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

[The next page is 501]



## CHAPTER 112

# TELEPHONE FRANCHISE

112.01 Franchise Granted  
112.02 Restrictions  
112.03 Moving Structures

112.04 Indemnification  
112.05 Damage or Defacing Facilities

**112.01 FRANCHISE GRANTED.** GTE North Incorporated (Iowa Telecom), its successors and assigns (hereinafter referred to as “Grantee”) are hereby granted a franchise for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter<sup>†</sup> to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, laterals, conduits and other fixtures and equipment in, upon, through, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the corporate limits of the City as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the City, to adjacent rural areas and to the public at large telephone and telecommunications service, local and long distance, and communication by telephone or other electric signals and for the conduct of a general telephone business therein.

**112.02 RESTRICTIONS.** Grantee’s rights and privileges in the public ways and grounds of the City shall be exercised as follows:

1. Location of its existing system are hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be under the supervision of the City’s street committee or such other officer as may be designated by the Mayor and Council for that purpose.
2. The installations of the Grantee shall be so placed and the servicing and operation thereof so performed as not to interfere unreasonably with ordinary travel on the public ways or with ingress to or egress from public or private property.
3. Grantee may make excavations in public grounds or ways and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 204 adopting a telephone franchise for the City was passed and adopted on March 26, 1990.

facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.

4. Grantee shall permit the City to attach to its poles its fire and/or police wires and apparatus incident thereto, such attachments to be made under the direction and supervision of the Grantee and so made and maintained as not to interfere with the Grantee's use of said poles.

**112.03 MOVING STRUCTURES.** Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the City vehicles or structures, other than parade components, of such height or size as to interfere with its poles and/or wires erected hereunder and shall temporarily remove, raise or lower the same to permit such passage, provided:

1. Written notice thereof shall be served upon Grantee's agent or manager in the City not less than forty-eight (48) hours in advance of the time set for the proposed passage.
2. Grantee is paid in advance the actual cost of such accommodation.

**112.04 INDEMNIFICATION.** The Grantee shall indemnify the City against loss from claims or causes or action arising out of its construction, reconstruction, maintenance or operation of the installations herein authorized.

**112.05 DAMAGE OR DEFACING FACILITIES.** It is unlawful for any person to injure, destroy or deface any property of Grantee lawfully installed and maintained hereunder or to post bills or signs thereon. A violation of this section shall constitute a misdemeanor.

**CHAPTER 113**  
**CABLE TELEVISION FRANCHISE AND**  
**REGULATIONS**

113.01 Definitions	113.18 Compliance with Standards
113.02 Grant of Authority	113.19 Company Rules and Regulations
113.03 Franchise Term	113.20 Approval of Transfer
113.04 Compliance with Laws	113.21 Compliance with FCC Rules and Regulations
113.05 System Construction, Maintenance, and Procedures	113.22 Channel Capacity, Access and Picture Quality
113.06 Installation and Maintenance	113.23 City Rights
113.07 Annexation	113.24 Use of System by City
113.08 Restoration of Surfaces	113.25 Liability
113.09 Street Grades	113.26 No Property Right
113.10 Approval of Plat and Construction Schedule	113.27 Construction Approval By City
113.11 Moving Buildings	113.28 Correction of Defects
113.12 Trimming of Trees	113.29 Activities Prohibited
113.13 Service to Municipal Buildings	113.30 Subscriber Rates and Charges
113.14 Service to Schools	113.31 Change of Subscriber Rates and Charges
113.15 Sale of Converters	113.32 Company Office; Complaint Procedures
113.16 Construction Schedule	113.33 Protection of Privacy
113.17 Line Extensions	

**113.01 DEFINITIONS.** For the purpose of this chapter, the following terms are defined.

1. “Company” means GALAXY AMERICAN COMMUNICATIONS L.L.C., the grantee of rights under this chapter, and its lawful successors and assigns.
2. “Cable television system” or “system” means any system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party, and distributes such signals and programming by wire, cable or other means to persons who subscribe to such service.
3. “Federal Communications Commission” or “FCC” means that Federal agency constituted by the Communications Act of 1934 as amended.
4. “Plant mile” means a linear mile measured on the ground where cable is hung on strand or buried underground.

**113.02 GRANT OF AUTHORITY.** The regulatory ordinance codified by this chapter, which grants the nonexclusive right to construct, operate and maintain a cable television system in the City, was passed and adopted by the Council after a public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the

Company. Therefore, the City hereby grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above, and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

**113.03 FRANCHISE TERM.** The franchise granted the Company herein shall terminate 25 years from date of grant.<sup>†</sup> The Company shall notify the City at least one year prior to the expiration of its franchise as to whether or not the Company intends to seek a franchise renewal. The Council, upon notification by the Company of its intention to seek franchise renewal, shall follow all procedures of law effective and applicable at that time.

**113.04 COMPLIANCE WITH LAWS.** At all times during the life of the franchise, the Company shall be subject to all lawful exercise of the police power by the City and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in full compliance with such portions of the *National Building and Electric Code* and *National Electric Safety Code* as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other codes, chapters, rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the City or other agency of the State or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized herein.

**113.05 SYSTEM CONSTRUCTION, MAINTENANCE, AND PROCEDURES.** Upon grant of this franchise to construct and maintain a cable television system in the City, and in furtherance of the Company's execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the City to whatever extent such contract or contracts may be expedient and of advantage to the Company for

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<sup>†</sup> **EDITOR'S NOTE:** An Ordinance adopting a cable television franchise for the City was passed and adopted on July 11, 1983. Ordinance No. 263, adopted January 22, 2001, provided for the transfer of the franchise to the Grantee.

use of poles and posts necessary for proper installation of the system, the Company may obtain right-of-way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a City, County, State or Federal agency may require. The Company shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough, and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company and restored to serviceable condition, at Company expense.

**113.06 INSTALLATION AND MAINTENANCE.** The Company's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements and other public ways and places, or cause interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places. Wherever within the City telephone and electrical cable is underground at the time of installation, the Company shall also place the cable television cable underground; at any time after installation that the telephone and electrical cable is hereafter placed underground, the Company shall also at the same time reinstall and place all cable television cable underground.

**113.07 ANNEXATION.** In the event that the City shall annex further territory as authorized by law, the Company shall extend energized trunk cable to the remaining portions of the City so annexed within a reasonable time acceptable to the City Council. Nothing contained in this section shall preclude the requirements of Section 113.17 from being enforced.

**113.08 RESTORATION OF SURFACES.** In case of any disturbance of pavement, sidewalk, driveway, ground or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, ground, bushes, grass, planting, and similar items, or surface of any street or alley disturbed, in as good condition as before said work was commenced. The City's Commissioner of Streets and Public Improvements or any designee shall approve all requests of the Company in advance, in the case of disturbance of pavement, sidewalk, driveway, ground, or other surfacing. Further, the Commissioner of Streets and

Public Improvements or any designee shall approve in advance the time allowed for the Company to disturb pavement, sidewalk, driveway, ground or other surfacing.

**113.09 STREET GRADES.** In the event that at any time during the period of the franchise the City shall elect to alter or change the grade of any street, alley or other public way, the Company, 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.

**113.10 APPROVAL OF PLAT AND CONSTRUCTION SCHEDULE.** The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main. The Company shall, prior to commencement of any construction of any parts or phases of the system, submit a plat and construction schedule to the City Council, which such plat and schedule shall be approved by the Council or its authorized representative prior to the commencement of any such construction by the Company.

**113.11 MOVING BUILDINGS.** The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily promptly raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than forty-eight (48) hours' advance notice to arrange for such temporary wire changes.

**113.12 TRIMMING OF TREES.** The Company 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 wires and cables of the Company. All trimming shall be done under the supervision and direction and with the prior approval of the City Forester. All trimming authorized by this chapter shall be done at the expense of the Company.

**113.13 SERVICE TO MUNICIPAL BUILDINGS.** The Company shall provide upon request and without installation charge or any type of continuing use charge or fee, service to any municipal building owned or leased and operated by the City. This means only an energized cable to such building. The cost of any internal wiring shall not be the expense of the Company.

**113.14 SERVICE TO SCHOOLS.** The Company shall provide upon request and without installation charge or any type of continuing use charge,

service to any public or parochial elementary or secondary school buildings, to any nonprofit higher education buildings, to any buildings of private or public nonprofit facilities licensed by the State of Iowa, hospitals, and any other nonprofit public educational agencies. This means only an energized cable to such building. The cost of any internal wiring shall not be borne by the Company.

**113.15 SALE OF CONVERTERS.** Any public or parochial school, any nonprofit higher educational institutions, any buildings or private or public nonprofit facilities licensed by the State of Iowa as hospitals, any other nonprofit public educational agencies and any municipal buildings owned or leased and operated by the City shall be allowed to purchase converters from the Company at a reasonable cost, or from any other source provided such converters comply with technical specifications established by the Company. If the converters are provided by the institution either by purchase from the Company, or, from another source meeting technical specifications, then the same shall be maintained by the institution or agency without any monthly charge by the Company. If the Company provides the converter, then it shall be the responsibility of the Company to maintain the converter, and the Company may charge up to \$1.50 per month for each converter.

**113.16 CONSTRUCTION SCHEDULE.** The Company shall accomplish the construction of at least two (2) plant miles within one year after receiving FCC certification, and shall thereafter reasonably make cable service available to all residents of the City, subject to the line extension provisions of Section 113.17, within three (3) years after receiving Federal approval.

**113.17 LINE EXTENSIONS.** It shall be the obligation of the Company 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 unfeasible or economically non-compensatory as approved by the Council. For purposes of determining compliance with the provisions of this chapter, and to provide for a reasonable and non-discriminatory policy governing extensions of cable service within the City, the Company shall extend service to new subscribers, at the approved installation charge and monthly rate for customers of that classification where there is an average of fifty (50) homes per each linear mile of new cable construction. In the event the standards of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory as shall be determined by the Council.

**113.18 COMPLIANCE WITH STANDARDS.** All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements and specifications of the *National Electrical Safety Code* and such

applicable chapters and regulations set forth by the City and/or any other local, State or Federal agencies, including all amendments.

**113.19 COMPANY RULES AND REGULATIONS.** The Company shall have the authority to promulgate such rules, regulations, terms and conditions, subject to approval of the City Council, governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers, provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal and State laws, and City ordinances or rules and regulations of the City. The Company shall not create rules and regulations that preclude the subscriber from having an outside antenna system and antenna switch device. The Company may publish a list of acceptable switch devices and make said list available to its subscribers. The Company is responsible for maintenance of switch devices furnished by itself, but not if furnished by a source other than the Company.

**113.20 APPROVAL OF TRANSFER.**

1. No transfer of control of the cable system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance of any other form of disposition, without prior notice to and approval by the Council, which shall not be unreasonably refused. The notice shall include full identifying particulars of the proposed transaction, and the Council shall act by resolution. The Council shall have sixty (60) days within which to approve or disapprove a transfer of control; if no action is taken within sixty (60) days, approval shall be deemed to have been given.
2. The consent or approval of the Council to any assignment, lease, transfer, sub-lease, or mortgage of the Company shall not constitute a waiver or release of the rights of the City in and to the streets.
3. For the purposes of this chapter the term “control” is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
4. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent (10%) of the voting shares of the Company.
5. A mortgage or pledge of the cable system equipment or any part thereof or a leasing by a company from another person of said cable system equipment or part thereof for financing purposes or otherwise shall be made only with the prior approval of the Council and shall be



subject and subordinate to the rights of the City under this chapter or applicable law.

6. In the absence of extraordinary circumstances, the Council will not approve any transfer or assignment of the franchise before completion of initial construction of the energized cable.

**113.21 COMPLIANCE WITH FCC RULES AND REGULATIONS.** The Company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC. This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV System and signal carriage therein.

**113.22 CHANNEL CAPACITY, ACCESS AND PICTURE QUALITY.** The cable television system to be installed shall:

1. Have a 35-channel capability. The Company will install and maintain a cable television system in keeping with cable system technology including the capacity for satellite reception.
2. Be capable of passing standard color television signals without the introduction of material degradation of color fidelity and intelligence from the head-end input to the subscriber's television receiver.

**113.23 CITY RIGHTS.** The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted, and shall not be in conflict with the applicable laws of the State of Iowa or the United States.

**113.24 USE OF SYSTEM BY CITY.** The City shall have the right, during the life of this franchise, of maintaining upon the poles or in the underground conduits of the Company within the City limits wire and fixtures necessary for a traffic signal control system and/or a police and fire alarm system, such wires and fixtures shall be installed and maintained at the sole expense of the City and shall at all times comply with all the reasonable rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and wires and fixtures used by the City without cost to the City.

**113.25 LIABILITY.** The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties, except for damage caused to the Company's facilities by the negligence of the City's employees while they are conducting City business. The City shall not be liable for the interruption of service by

actions of City employees in the performance of their duties, nor shall the City be held liable for the failure of the Company to be able to perform normal services due to acts of God or other factors beyond the control of the City.

**113.26 NO PROPERTY RIGHT.** Nothing in this chapter shall grant to the Company any right to property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than or in any fashion other than in the City's judgment its own business or needs may require.

**113.27 CONSTRUCTION APPROVAL BY CITY.** Except for individual service drops, the Company shall not erect any pole, install any underground lines or conduit, run any line, make any attachment, nor shall any construction of any kind be commenced without the prior approval of the Commissioner of Streets and Public Improvements or any designee, which approval shall not be unreasonably withheld, and the City shall have and maintain the right to inspect the construction, operation and maintenance of the system by the Company to insure the proper performance of the terms of this chapter.

**113.28 CORRECTION OF DEFECTS.** In the event the Company should violate any of the terms of this chapter, or any of the rules and regulations as may be from time to time lawfully adopted, the City shall immediately give to the Company thirty (30) days' written notice to correct such violation, and in the event the Company does not make such correction within 30 days from the receipt of such written notice, the Company shall then be subject to cancellation of the franchise, and after the expiration of an additional thirty-day written notice of cancellation from the City to the Company, the Company's franchise and its right to operate thereunder in the City shall stand forfeited and cancelled. Any delay in correcting such violation which is caused by factors beyond the control of the Company, shall not be included in computing the length of continuance of such violation.

**113.29 ACTIVITIES PROHIBITED.**

1. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.
2. The Company may, as to rates, charges, service, facilities, rules or regulations, grant preference or advantage to any person with prior approval of the Council. Nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification

would be entitled, providing the graduated scale of charges and classified rate schedules have been approved by the Council.

3. It is unlawful for the Company to assess any monetary penalty against a system user as a result of failure to pay a user's bill by a specified date.

**113.30 SUBSCRIBER RATES AND CHARGES.** Except as otherwise provided in this chapter, the Company shall have the right, privilege and authority to charge the rates and charges fixed by the Company to its subscribers for its services, after being approved by the City Council. Monthly programming charges becomes due the first of each month with disconnect following twenty (20) days of nonpayment. A partial month of service shall be pro rated by days of service. Grantee may, at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly service fees for periods not to exceed thirty (30) days for promotional purposes.

**113.31 CHANGE OF SUBSCRIBER RATES AND CHARGES.**

1. For the purpose of this chapter, "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.

2. Grantee may increase or decrease the rates for all classes of subscribers only after the approval of such change is granted by Council. Notification of intended rate changes shall be filed with the Council not less than thirty (30) days and not more than sixty (60) days from the proposed effective date.

3. Before approving such change, the City shall hold a public hearing thereon, and shall cause to be published in a newspaper of general circulation in the City a public notice setting forth the proposed rates and charges and the date, time and place of the public hearing. At such public hearing, any interested party shall have the right to be heard.

4. In no event shall rates be increased for a period of two (2) years following award of franchise.

5. The Grantee shall pay all costs and expenses incurred by the City in connection with any application for a rate change.

**113.32 COMPANY OFFICE; COMPLAINT PROCEDURES.** During the term of the franchise, and any renewal thereof, the Company shall maintain a company business office or agent for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The provisions of this chapter shall be complied with if the Company maintains a business headquarters office staffed with adequate personnel no more than thirty (30) miles from the corporate limits of the City, and provides the Mayor's Office with the name, address, and phone number of a person who will act as the Company's agent to receive complaints regarding quality of service, equipment malfunctions, and similar matters. The local office shall be open to receive inquiries of complaints from subscribers during the hours of 8:30 a.m. to 5:00 p.m., five (5) days per week. Any complaints from subscribers shall be investigated and corrected as soon as possible, but at least within three (3) business days of their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint, and the time and date thereof. This log shall be made available for periodic inspection by the City.

**113.33 PROTECTION OF PRIVACY.**

1. Grantee shall not permit the transmission of any signal, aural, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining written permission of the subscriber.
2. Grantee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.
3. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised CATV system within the City for the purpose of enabling such person or others to take or receive television signals, radio signals, pictures, programs or sounds, without payment to the owner of said system.
4. The Company shall be prohibited from selling or in any other manner making available the Company's subscriber lists to any person.

[The next page is 575]

## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122 and 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 and 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a 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 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 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 6:00 a.m. on Sunday and 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 6:00 a.m. on Sunday and 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 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Ord. 358 – Oct. 21 Supp.)*

*(Code of Iowa, Sec. 123.49[2b and 2k] and 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 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])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[2i])*

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.



## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 453A.1*)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco;

fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

**121.02 PERMIT REQUIRED.**

1. Cigarette Permits. 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, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (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 & 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

*(Code of Iowa, 453A.13 & 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** 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. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of 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 retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer'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.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

[The next page is 585]

**CHAPTER 122**  
**PEDDLERS, SOLICITORS AND TRANSIENT**  
**MERCHANTS**

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
  - A. For one day ..... \$ 5.00
  - B. For one week..... \$ 10.00
  - C. For up to six (6) months..... \$ 20.00
  - D. For one year or major part thereof.. \$ 25.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 5:00 p.m.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.14 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.17 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**122.18 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the North Linn 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.

*(Section 122.18 – Ord. 342 – Oct. 18 Supp.)*

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.**

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount



thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

[The next page is 595]

## CHAPTER 123

### HOUSE MOVERS

123.01 House Mover Defined  
123.02 Permit Required  
123.03 Application  
123.04 Bond Required  
123.05 Insurance Required  
123.06 Permit Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made 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 Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of 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 five dollars (\$5.00) 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.

[The next page is 625]

## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(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, or 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. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Fee. A permit fee as set forth in the Schedule of Fees must accompany the application upon submission to the City. A separate permit shall be required for each excavation. *(Ord. 322 – Dec. 15 Supp.)*

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

**135.10 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 City shall, at the City's expense, install and maintain a culvert under any driveway or access to property where a culvert is deemed necessary. The City shall furnish an initial twelve (12) feet of culvert for such purpose. The property owner shall be responsible for the cost of any portion of the initial culvert over 12 feet in length and for any future replacement cost of the entire culvert.

## 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 Liability for Damages

**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 property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

*(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-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 three (3) feet wide and four (4) inches thick, and each section shall be no more than six (6) 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.

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) on the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which 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. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not

limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (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 LIABILITY FOR DAMAGES.** The abutting property owner may be liable for damages caused by failure to move snow and ice accumulations or by the failure to maintain a safe and hazard free condition of any sidewalk.

*(Code of Iowa, 364.12[2c])*

*(Ord. 319 – Mar. 15 Supp.)*

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## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate  
137.02 Planning and Zoning Commission  
137.03 Notice of Vacation Hearing

137.04 Findings Required  
137.05 Disposal of Vacated Streets or Alleys  
137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 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)*





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## CHAPTER 139

# NAMING OF STREETS

139.01 Naming New Streets  
139.02 Changing Name of Street  
139.03 Recording Street Names

139.04 Official Street Name Map  
139.05 Revision of Street Name Map

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by ordinance, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Walker, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk. No

amendment to this chapter which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.

## 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  
140.07 Parking Restricted

**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. F-229. On the Primary Road System extension improvement, Project No. F-229, Primary Road No. 150, within the City, described as follows:

On present route of Iowa No. 150 from the south corporate line (station 1194 + 69.25) to the west corporate line (Station 1218 + 76.25)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-229, on file in the office of the Clerk.

**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.
5. Operate a bicycle, skateboard, or other pedestrian conveyance or be a pedestrian anywhere on a fully controlled-access facility.
6. Signs on Public Property. No signboards will be allowed on public property along said highway.
7. Signs on Private Property. No signboards will be allowed on private property when such signboards will obstruct the view of any portion of the public highway or street or railroad track.

*(Section 140.05 – Ord. 359 – Oct. 21 Supp.)*

**140.06 PERMITTED ACCESS POINTS.** Points of access are hereby permitted as follows:

*(Code of Iowa, Sec. 306A.4)*

1. Project No. F-229. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-229 is hereby recorded as follows:

STATION	SIDE OF STREET	WIDTH	PURPOSE
1200 + 00	Right	24 feet	Side Road
1203 + 95	Left	10 feet	Cemetery Entrance
1211 + 00	Left	10 feet	Field Entrance
1211 + 90	Right	24 feet	Side Road
1212 + 24	Left	10 feet	Cemetery Entrance
1217 + 56	Left	20 feet	Cemetery Entrance



**140.07 PARKING RESTRICTED.** The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Project No. F-229. Parking of any nature is prohibited on Project No. F-229 in any of the following specifically designated locations:

A. Iowa Highway 150,<sup>†</sup> on both sides, from the south corporate line (Station 1194 + 69.25) to the west corporate line (Station 1218 + 76.25).

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<sup>†</sup> **EDITOR'S NOTE:** Iowa Highway 150 is now known as North Center Point Road.

[The next page is 651]

## CHAPTER 141

# MAILBOXES AND NEWSPAPER RECEPTACLES

141.01 Specifications  
141.02 Placement of Newspaper Receptacles  
141.03 Attachment to Supports

141.04 Responsibility for Repair  
141.05 Permit

**141.01 SPECIFICATIONS.** The U.S. Postal Service regulations specify the dimensions and marking for mailboxes and list manufacturers of approved types of mailboxes. These regulations also govern the placement of newspaper receptacles that are attached to mailbox supports. The Postal Service determines if mailboxes conform to the regulations. It is their policy to notify the owners of nonconforming boxes and request that the irregularities or defects be remedied.

**141.02 PLACEMENT OF NEWSPAPER RECEPTACLES.** Publishing companies are allowed to erect and maintain receptacles for newspaper or other publications on the right-of-way provided that the installation complies with City and U.S. Postal Service regulations. Receptacles attached to mailbox supports shall be located on the right-hand side of the road in the direction of travel. There shall be no advertising on the receptacles (the name of the publishing company may be shown by embossing only). Publishing company receptacles not attached to mailbox supports must be placed on the right-of-way adjacent to the recipient's place of residence.

**141.03 ATTACHMENT TO SUPPORTS.** The mailbox or newspaper receptacle shall be firmly attached to a support that will yield or break away when struck by a vehicle or maintenance equipment. Illustrations of approved types of support assemblies are available at City Hall. Basic standards of installation are as follows:

1. The front edge, or street side face, of the mailbox or newspaper receptacle shall be set back the width of the shoulder (or the outermost edge of the road where there is no shoulder), plus eight (8) inches.
2. The support post must be at least forty-eight (48) inches from the face of the main box to the support post.
3. Mailbox or newspaper receptacle must be installed at a height of 42 inches to 48 inches from the road surface to the bottom of the mailbox or newspaper receptacle or point of entry.
4. The box or receptacle shall be attached to the support firmly enough that the box and support do not separate when struck.

**141.04 RESPONSIBILITY FOR REPAIR.** The City shall not be responsible for repair of mailboxes, newspaper receptacles or their supports that are damaged due to normal or routine snow plowing or other road maintenance operations.

**141.05 PERMIT.** The permit shall be applied for in writing, on a form provided by the City Clerk, and accompanied by plans and specifications sufficient to determine compliance with all applicable laws of the State of Iowa and all ordinances of the City, with the applicable fee as set forth in the Schedule of Fees. *(Ord. 321 – Dec. 15 Supp.)*

[The next page is 671]

## CHAPTER 145

### DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish; Municipal Infraction  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures 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.<sup>†</sup>

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: “DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF WALKER, 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; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.. 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. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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<sup>†</sup> **EDITOR’S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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## CHAPTER 146

### MANUFACTURED AND MOBILE HOMES

146.01 Purpose	146.18 Mobile Home Stands
146.02 Definitions	146.19 Water Supply
146.03 Conversion to Real Property	146.20 Water Distribution System
146.04 Foundation Requirements	146.21 Individual Water Riser Pipes and Connections
146.05 Mobile Home Park Development Plan	146.22 Sewage Disposal
146.06 Area	146.23 Sewer Lines
146.07 Yards, Mobile Home Lot	146.24 Individual Sewer Connections
146.08 Required Separation Between Mobile Homes, Accessory Uses and Appurtenances	146.25 Electrical Distribution System
146.09 Park Perimeter General Area Requirements	146.26 Main Electrical Power Distribution Lines
146.10 Soil and Ground Cover Requirements	146.27 Individual Electrical Connections
146.11 Site Drainage Requirements	146.28 Required Grounding
146.12 Lot Markers	146.29 Service Buildings and Other Community Service Facilities
146.13 Park Areas for Accessory Uses	146.30 Refuse Hauling
146.14 Required Recreation Areas	146.31 Insect and Rodent Control
146.15 Park Street Systems	146.32 Natural Gas System
146.16 Required Parking Areas	146.33 Fire Protection
146.17 Walks	146.34 Responsibilities of Park Management

**146.01 PURPOSE.** The purpose of this chapter is to provide for municipal regulation of mobile homes and mobile home parks in furtherance of the public health, safety, morals and welfare, and to regulate mobile home parks, lot size, parks, street standards, density, common areas, sewage requirements, water supply, mobile home stands, skirting of mobile homes, tenant storage, community buildings, yards, health standards, fire standards, building standards, recreation areas, parking areas, refuse handling, and insect and rodent control in the City.

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

*(Code of Iowa, Sec. 435.1)*

1. “Accessory use” means a use incidental to the primary use of the Mobile Home Park, such as a direct service facility building, park management building, maintenance building, community buildings, or other uses of a similar nature.
2. “Approved mobile home park development plan” means the mobile home park development plan approved by the Council.
3. “Appurtenance” means an attached or detached enclosed addition to a mobile home, situated on the mobile home lot for the use of its occupants, such as an enclosed carport, garage, storage shed, or items of a similar nature.

4. “Building Codes” means those applicable codes enforced by the Zoning Administrator for the City and known as the Walker Building Codes.
5. “Common area” means any area or space designed for joint use of tenants occupying mobile home parks.
6. “Common walk system” means sidewalks within the mobile home park.
7. “Community building” means a building housing toilet and bathing facilities for men and women, a slop-water sink and such other facilities as may be required by this chapter or the Code of Iowa.
8. “Density” means the number of mobile homes or mobile home stands per gross acre.
9. “Design standards” means those standards and specifications adopted and approved for public improvements by the City.
10. “Driveway” means a minor private way used by vehicles and pedestrians on a mobile home lot.
11. “Easement” means a vested or acquired right to use land and, other than as a tenant, for a specific purpose. Such right is held by someone other than the owner who holds title to the land.
12. “Electric park receptacle” means the waterproof attachment receptacle device located adjacent to the water and sewer outlets to receive the flexible cable from the mobile home; or where required, the permanently installed conductors.
13. “Electric service drop” means that part of the electric distribution system from the main electrical distribution system, overhead or underground to the service equipment serving one or more mobile home spaces.
14. “Existing installations” means those installations which were constructed before the effective date of the ordinance codified in this chapter.
15. “Health authority” means the legally designated health authority or its authorized representative of the City.
16. “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.
17. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied

manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

18. “Mobile home lot” means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

19. “Mobile home park development plan” means a custom-made design for a specific site or area consisting of drawings, maps, and engineering details to set forth the boundary, topography and overall park design, including streets, parking facilities, mobile home lot locations and service facilities.

20. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

21. “Mobile home stand” means that part of an individual mobile home lot which has been reserved for the placement of the mobile home and any appurtenances thereto.

22. “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.

23. “Motorized home” means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

24. “New installations” means those which are proposed for construction after the effective date of these rules and regulations.

25. “Patio” means a surfaced outdoor living space designed to supplement the mobile home living area.

26. “Permit” means a written permit issued by the Zoning Administrator where applicable, permitting the construction, alteration and extension of a mobile home park under the provisions of this chapter.

27. "Pickup coach" means a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary or permanent dwelling.
28. "Plat" means a map, plan, or chart of a city, town, section, county section, or subdivision, indicating the location and boundaries of individual properties.
29. "Private street" means a private way which affords principal means of access to abutting individual mobile home lots or accessory.
30. "Property line" means a recorded boundary of a plat.
31. "Public street" means a public way which affords principal means of access to abutting properties.
32. "Public system (water or sewage)" means a system which is owned and operated by a local governmental authority or by an established public utility company which is adequately controlled by governmental authority. Such systems are usually existing systems serving the municipality or a water or sewer district established and directly controlled under the laws of the State.
33. "Right-of-way" means the area, either public or private, over which the right of passage exists.
34. "Roadway" means that portion of the mobile home park street system that is surfaced for the actual travel or parking of vehicles, including curbs.
35. "Sewer connection" means the connection consisting of all pipes, fittings, and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewage system serving the mobile home park.
36. "Sewer riser pipe" means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.
37. "Single ownership" means an individual, partnership, corporation, or other entity owning the whole park.
38. "Skirting" means the materials and construction around the perimeter of a mobile home floor between the bottom of the mobile home floor and the grade level of the mobile home stand.
39. "Tenant storage" means an enclosed space designed to provide auxiliary general storage space for an individual mobile home.
40. "Transient use" means the occupancy of a mobile home lot by a mobile home user for a period of 14 days or less.

41. “Travel trailer” means a vehicular, portable structure on a chassis, designed to be used as a temporary dwelling.

42. “Water connection” means the connection consisting of all pipes, meter pit, meters, and fittings from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

43. “Water riser pipe” means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

44. “Yards” means the area on the same lot with a mobile home between the lot line and the front, rear, or side of the mobile home. For purposes of this chapter, the “front” of a mobile home shall be considered as that part of the mobile home facing toward the approved street or right-of-way as required by this chapter.

The terms “manufactured home community” and “mobile home park” are not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.03 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

*(Code of Iowa, Sec. 435.26 & Sec. 435.35)*

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.04 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system

must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

*(Code of Iowa, Sec. 103A.10 & 414.28)*

#### **146.05 MOBILE HOME PARK DEVELOPMENT PLAN.**

1. No mobile home shall be located or altered, or land or water used, or certificate of occupancy issued therefor by the Zoning Administrator unless and until the required mobile home park development plan is officially approved by resolution of the City Council.
2. The proposed mobile home park development plan shall show the following:
  - A. Topography with topographic lines at a minimum of two-foot intervals.
  - B. Park boundaries and dimensions as obtained by a boundary survey by licensed land surveyor in the State of Iowa.
  - C. Location and area of all uses, including streets adjacent to and within the park; walks, patios, mobile home stands; play areas, parks, and common open spaces, parking areas; utilities including street lighting and fire hydrants; physical features such as retaining walls, fences, trees, and natural features; other information that may be required by the Planning and Zoning Commission, Engineering, Traffic, Fire, Health, Water or Building Departments; easements and dedications.
  - D. The mobile home park plan shall be prepared by a landscape architect, architect, engineer, land surveyor, or other experienced designer and have the seal of a duly authorized engineer or land surveyor in the State of Iowa, certifying boundaries, boundary measurements, and such other matters as are required to be so approved by the City.
3. The proposed mobile home park development plan shall be in accordance with the site design plan approved by the Council with the Residential-MH zoning granted for the proposed mobile home park.
4. Every mobile home park shall be constructed and maintained in accordance with the approved mobile home park development plan.
5. All mobile homes shall be located and maintained in full conformity with the approved mobile home park development plan.
6. In recommending upon and approving mobile home parks, the Council shall consider the location, size, height, spacing and extent of

use of any mobile home and its appurtenances, access and circulation for vehicles and pedestrians, streets, parking areas, yards and open spaces and the relationship to adjacent property. The City Planning and Zoning Commission shall not recommend and the Council shall not adopt such mobile home park plan unless it finds that such plan conforms to all applicable provisions of this chapter.

7. If said mobile home park development plan contains no dedication to the City for streets or utilities or should it be contemplated that the facilities of the City shall not be used for maintenance of streets, sidewalks, water and sewer lines, garbage collection or other related functions, then such owner shall be required to record with such mobile home park plan a covenant that they will maintain said streets, sidewalks, water and sewer lines in compliance with the minimum standards as established by the City, and that should they fail to maintain said standards in any of these respects, the City may, after 10 days' notice to such owner, effect all the necessary repairs or improvements as required to maintain said minimum standards and the cost of all these and other necessary repairs or improvements shall become a lien against said real estate and enforced and recorded as mechanic's liens are enforced and recorded against such real estate, and said covenant shall contain the following provision:

*That (name of owner), being the owner or owners of the real estate contained in the above attached Mobile Home Park Development Plan, hereby consent that if they or their assignees, heirs or those holding or owning said land through said owners fail to maintain the streets, sidewalks, water and sewer mains according to and in compliance with the minimum standards for maintenance of streets, sidewalks, water and sewer mains as established by the City, that after 10 days' notice in writing to the owner of said land as shown upon the records in the County Auditor's office of Linn County, Iowa, and at the address therein shown, then said owners, assignees, heirs, and those holding or owning through said owners, hereby authorize the City to make all necessary repairs and perform all necessary maintenance and further authorize the City to file a mechanic's lien or such other lien or encumbrance against said real estate and enforce said lien pursuant to laws then applicable.*

8. The amending procedure shall be as follows:

A. If it is found necessary to make material or substantial alterations or modifications to an approved mobile home park development plan, such alterations or modifications shall be subject to the approval of the Council.

B. A request for approval of alterations or modifications of a previously approved mobile home park development plan shall be accompanied by the same kind and number of exhibits as is

required for a new request for approval insofar as such exhibits are applicable to the requested alterations or modifications. When the Council by official resolution approves the revised mobile home park development plan, said revised plan will supplant the original approved mobile home park development plan.

C. If a reasonable length of time has elapsed without significant progress having been made in completion of the mobile home park or if there has in the interim been a significant environmental change within or surrounding the area covered by the plan, the Council may require that a revised plan be submitted by the developer.

**146.06 AREA.** Every lot upon which a mobile home unit is located shall front onto an approved public or private street or right-of-way as defined in this chapter and shall conform to the following minimum lot area and width requirements.

1. Residential Use. The lot area shall be a minimum of 6,000 square feet for single wide and 7,200 square feet for double wide mobile homes, with a minimum depth of 120 feet on its longest side, and with a minimum frontage on an approved public or private street or right-of-way of not less than 15 feet. However, such minimum lot area may be reduced by an amount equal to an area included in common open space which is defined as an area permanently reserved as open space (not including land in individual lots, parking areas or streets) contiguous and immediately available to the individual lot or lots having reduced minimum areas, and by means of location, size, shape and landscaping being obviously primarily for the utilization and enjoyment of the inhabitants of the said contiguous lots. An individual mobile home lot shall not be reduced in an area to less than 3,750 square feet.

2. Accessory Uses. The lot area shall be a minimum of 4,000 square feet for basic requirements for such uses as direct servicing, management and maintenance of the park. Any such structure shall be of permanent type construction meeting all local applicable building codes. For uses requiring larger lot areas than heretofore set forth under this section, such uses may be permitted if lot sizes are increased proportionately to maintain minimum yard and separation requirements as set forth in this chapter.

**146.07 YARDS, MOBILE HOME LOT.** All yards shall be subject to the following provisions:

1. Front Yard. Every lot shall have a front yard not less than 20 feet in depth measured from the edge of the surface of the public or private



street, or right-of-way to the closest point on the lower surface of the mobile home.

2. Side and Rear Yards. Side and rear yards shall be provided and maintained as set forth in this chapter.

**146.08 REQUIRED SEPARATION BETWEEN MOBILE HOMES, ACCESSORY USES AND APPURTENANCES.**

1. Every mobile home shall be separated from other mobile homes and from accessory buildings on adjacent lots by a minimum distance of 25 feet.

2. Appurtenances attached to a mobile home shall be provided with a minimum separation of 25 feet from:

- A. Any other attached appurtenance on an adjacent lot;
- B. Any mobile home on an adjacent lot;
- C. Any accessory building on an adjacent lot.

3. There shall be provided and maintained a minimum distance of 10 feet between any detached appurtenance and:

- A. Any other detached appurtenance on the same lot;
- B. Any mobile home on the same lot;
- C. Any detached appurtenance on an adjacent lot;
- D. Any mobile home on an adjacent lot.

4. There shall be provided and maintained a minimum distance of 25 feet between any detached appurtenance and any necessary buildings on adjacent lots.

5. Mobile homes shall be separated from each other on opposing sides of public or private streets a minimum of 45 feet provided that in no event shall the required front yard be less than set forth in this chapter. No mobile home accessory use or appurtenance shall be permitted in the required mobile home lot front yard or in the required separation between mobile homes on opposing sides of public or private streets as provided in this chapter.

**146.09 PARK PERIMETER GENERAL AREA REQUIREMENTS.**

1. Each yard abutting on a perimeter public street shall be considered a front yard and shall be a minimum of 50 feet in depth.

2. All other yards shall have a minimum depth of 50 feet when adjacent to any other Residential District other than a Residential-MH

District, and 35 feet when adjacent to another Residential-MH District or when adjacent to any district other than a Residential District.

3. The yard requirement herein may be reduced by one-half (1/2) the width of any alley adjacent thereto, and provided further that a greater or lesser yard may be required where the Council deems necessary.

4. Where the boundary of a mobile home park directly abuts another use district, the Council may, where it is deemed necessary, require that an area a minimum of 10 feet in width be reserved along the perimeter of the mobile home park and within said area require the erection of a fence or wall six feet in height of a material which will provide a significant visual and sound barrier, and/or screen plantings to be provided and maintained with a minimum height of eight feet at maturity, or as otherwise required by the Council. Said barrier of plantings shall be maintained by the mobile home park.

**146.10 SOIL AND GROUND COVER REQUIREMENTS.** Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of preventing objectionable dust.

**146.11 SITE DRAINAGE REQUIREMENTS.** Adequate provisions shall be made to handle all surface and storm drainage water as determined by the Council.

**146.12 LOT MARKERS.** The limits of each mobile home lot shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finish lot grade. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale of the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is in no way to be construed as permitting lots of a lesser size than the required minimum or in permitting lesser yard or separation dimensions than set forth elsewhere in this chapter.

**146.13 PARK AREAS FOR ACCESSORY USES.** No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale by an owner of a mobile home located on a mobile home stand and connected to the pertinent utilities. Any sales of mobile homes in

place on the mobile home stand shall not in any way relieve any parties involved from complying with all the applicable regulations of this chapter.

**146.14 REQUIRED RECREATION AREAS.** In all parks, there shall be one or more recreation areas which shall be easily accessible to all park residents. The size of such recreation areas shall be based upon a minimum of 250 square feet for each lot. No outdoor recreation area shall contain less than 2500 square feet. Required recreation areas shall be computed in addition to any other common open space required elsewhere in this chapter. Recreation areas shall be so located as to be free of traffic hazards and should be easily accessible.

**146.15 PARK STREET SYSTEMS.**

1. General Requirements. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public or private streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography.
2. Access. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of 42 feet where parking is permitted on both sides, and a minimum road pavement width of 32 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be 24 feet, provided that parking is prohibited at both sides.
3. Interior Streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:
  - A. All streets except minor streets – no parking 24 feet.
  - B. Minor streets – no parking 22 feet.
  - C. One-way minor street – no parking 12 feet (acceptable only if less than 500 feet total length and serving less than 25 mobile home lots).
  - D. No-outlet streets shall be limited in length to 300 feet and shall be provided at the closed end with a turn-around having an outside roadway radius of at least 40 feet with no parking permitted. Where parking is permitted, the radius shall not be less than 48 feet.

- E. All streets of a mobile home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the Council and by any other governmental agency exercising control over such streets or roads.
- F. If streets are to be dedicated to the City, their constructions shall meet the current design standards for public improvements adopted by the City.
4. Required Illumination of Mobile Home Park Street Systems. TIA parks shall be furnished with lighting units so spaced and equipped with approved fixtures placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night.
- A. All parts of the park street systems: 0.6 foot candle, with a minimum of 0.25 foot candle.
- B. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated with a minimum of 0.4 foot candle.
5. Street Construction and Design Standards.
- A. Pavement. All streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete with an approved curb to provide for drainage. Street surfaces shall be maintained free of cracks, holes and other hazards. All streets shall be constructed to specifications approved by the City.
- B. Grades. Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than five percent (5%). City Engineer approval is required for grades over seven percent (7%). Maximum allowable shall be twelve percent (12%) and minimum allowable shall be 5%. All street grades shall have prior approval of the City before commencing construction.
- C. Intersections. Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 125 feet shall be maintained between the centerline of off-set intersecting streets. Intersections of more than two streets at one point shall be avoided.

#### **146.16 REQUIRED PARKING AREAS.**

1. Parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the

rate of at least 2 car spaces for each mobile home lot. No on-street parking shall be allowed.

2. Required car parking spaces shall be so located as to provide convenient access to the mobile home but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve. All parking areas shall be constructed with a hard, smooth, dust-free surfacing consisting of either hot mix asphaltic concrete or Portland cement concrete with minimum thickness to be approved by City Engineer.

3. Sufficient off-street parking and storage area shall be provided to meet anticipated requirements of park occupants for storing of boats, boat trailers, travel trailers, pickup coaches, truck tractors, trucks over ¾-ton pickup size, and items of a similar nature. Said parking and storage area shall be in addition to parking required elsewhere in this section and parking and storage of vehicles and items listed in this subsection shall not be permitted in parking areas required elsewhere in this section. Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand; such temporary storage of a mobile home shall not exceed 48 hours.

#### **146.17 WALKS.**

1. General Requirements. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient should be avoided. All sidewalks shall be constructed to specifications approved by the City.

2. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and when constructed adjacent to the street curbing shall be a minimum of five feet.

3. Individual Walks. All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connected to a paved street. Such individual walks shall have a minimum width of two feet.

**146.18 MOBILE HOME STANDS.** The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

1. The mobile home stand shall be constructed in such a manner that it will not heave, shift, or settle unevenly under the weight of the mobile home due to inadequate drainage, vibration or other forces acting on the superstructure. The mobile home stand shall be constructed at a minimum with 6 inches deep by 30 inches wide, poured concrete ribbons with 6x6 No. 10 wire mesh reinforcing and of sufficient length to support all wheels and undercarriage supports of any mobile home that may be placed on the mobile home stand.
2. The mobile home stand shall be provided with anchors, arrowhead anchors, or other devices insuring the stability of the mobile home.
3. Tie-downs or anchors shall be placed at least at each corner of the mobile home stand to provide a readily accessible anchor for the mobile home and each shall be able to sustain a minimum tensile strength of 2800 pounds.
4. Skirting of a permanent type material and construction shall be installed to enclose the open space between the bottom of a mobile home floor and the grade level of the mobile home stand and shall be so constructed to provide substantial resistance to heavy winds, thereby alleviating, to the maximum extent possible, lifting action created on the underside of the mobile home by heavy winds.
5. Sufficient screened, ventilating area shall be installed in the skirting to supply the combustion requirements of heating units and other ventilating requirements of the mobile home. Provision shall be made for easy removal of a section large enough to permit access for inspection of the enclosed area under the mobile home and for repairs on sewer and water riser connections.
6. Skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park.

**146.19 WATER SUPPLY.** All mobile home stands and mobile home park facilities shall be connected to a City water supply and its supply used exclusively.

**146.20 WATER DISTRIBUTION SYSTEM.**

1. The water supply system of the mobile home park shall be connected by pipes to all mobile homes, buildings, and other facilities requiring water.

2. All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and local regulations and requirements and shall be of a type and in locations approved by the City.

3. The water system shall be designed, constructed, and maintained according to specifications of the City with a minimum water main size of 6 inches for adequate fire flows.

#### **146.21 INDIVIDUAL WATER RISER PIPES AND CONNECTIONS.**

1. Individual water riser pipes shall be located within, the confined area of the mobile home stand as near to the center from front to back as possible and at a point where the water connection will approximate a vertical position, as near to the center of the stand as possible.

2. Water riser pipes shall extend at least to ground level. The pipe shall be at least ¾-inch. The water outlet shall be capped when a mobile home does not occupy the lot.

3. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.

4. A shut-off valve below the frost line shall be provided near the water riser pipe on each mobile home lot.

5. Underground stops and water valves shall be installed and connected to the water supply as required by City regulations.

6. Water meter pits and water meters shall be installed for each mobile home and building using water. The meter pit shall be located in a manner free and clear from obstruction; i.e., not located under mobile homes.

7. There shall be a water meter set at the connection point to the City mains.

**146.22 SEWAGE DISPOSAL.** An adequate and safe sewage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with State and local laws.

**146.23 SEWER LINES.** All sewer mains and laterals shall be constructed according to specifications of the City and connected to the City sewer system or a sewage system approved by the City.

**146.24 INDIVIDUAL SEWER CONNECTIONS.**

1. Each mobile home stand shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand as near to the center from front to back as possible and so that the sewer connection to the mobile home drain outlet will approximate a vertical position, as near the center of the stand as possible.
2. The sewer connection (see definition) shall have a minimum inside diameter of three inches, and the slope thereof shall not be less than one-fourth (1/4) inch per foot. The sewer connection shall consist of one pipe line only without any branch fittings. All joints shall be air- and water-tight.
3. All materials used for sewer and sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.
4. Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least to ground level.

**146.25 ELECTRICAL DISTRIBUTION SYSTEM.** Every park shall contain an electrical wiring system consisting of necessary wiring, fixtures, and equipment which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

**146.26 MAIN ELECTRICAL POWER DISTRIBUTION LINES.** Main electrical power lines should be constructed underground according to local electric utility specifications.

**146.27 INDIVIDUAL ELECTRICAL CONNECTIONS.**

1. Each mobile home stand shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per mobile home stand outlet shall be according to City specifications and/or the *National Electrical Code*.
2. Outlet receptacles at each mobile home stand shall be located as close to the center front to back as possible and not more than 25 feet from the over-current protective devices in the mobile home and a three-pole, four-wire grounding type shall be used. Receptacles shall be of weather proof construction and configuration shall be in accordance with *Standard for Mobile Homes USAS A119.1*, published by United States of



America Standards Institute or similar equipment meeting the approval of the local electric utility.

3. The mobile home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug. However, where the calculated load of the mobile home is between 50 and 100 amperes, a second 50-ampere power supply assembly may be installed or an electrical service shall be provided by means of permanently installed conductors.

4. Where the calculated load exceeds 100 amperes or where a permanent feeder is used, the supply shall be by means of a 4-wire installation according to local utility specifications.

**146.28 REQUIRED GROUNDING.** All exposed non-current carrying metal parts of mobile homes and all equipment having electrical connections shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as a ground for mobile homes or other electrical equipment.

**146.29 SERVICE BUILDINGS AND OTHER COMMUNITY SERVICE FACILITIES.**

1. General. The requirements of this section shall apply to service buildings, recreation buildings and other community service facilities, such as:

- A. Management offices, repair shops and storage areas;
- B. Sanitary facilities;
- C. Laundry facilities;
- D. Indoor recreation areas.

2. Required Community Sanitary Facilities. Every park shall be provided with the following emergency sanitary facilities: for each 100 mobile home lots, or fractional part thereof, there shall be one flush toilet and one lavatory for each sex. The building containing such emergency sanitary facilities shall be accessible to all mobile homes. Where waiver of such facilities is permitted by the State Code governing new mobile home parks, the provisions of this section may be waived.

3. Structural Requirement for Buildings. All buildings other than mobile homes and their appurtenances shall be constructed in compliance with applicable State and local codes and regulations.

4. Barbecue Pits, Fireplaces, Stoves and Incinerators. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

#### **146.30 REFUSE HAULING.**

1. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution. Refuse collection and disposal shall be in compliance with current City Ordinance on refuse disposal and recycling.

2. All refuse shall be stored in fly-tight, water-tight, rodent proof containers, which shall be located not more than 300 feet from any mobile home lot they serve. Containers shall be provided in sufficient number and capacity to properly store all refuse.

3. Refuse collection stands consisting of a holder or rack elevated at least 12 inches above ground level or an impervious slab at ground level shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

4. All refuse containing garbage shall be collected at least three times weekly. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

#### **146.31 INSECT AND RODENT CONTROL.**

1. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements of the Health Authority.

2. Parks shall remain free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

3. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above the ground.

4. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other offensive insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

**146.32 NATURAL GAS SYSTEM.** Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

**146.33 FIRE PROTECTION.**

1. The mobile home park area shall be subject to the rules and regulations of the City Fire Department.

2. Mobile home parks shall be kept free of lifter, rubbish and other flammable materials.

3. Portable fire extinguishers of a type approved by the City Fire Department shall be kept in service buildings and at all locations designated by such fire prevention authority and shall be maintained in good operating condition.

4. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.

5. Fire hydrants shall be installed in the parks water system and located at such locations as determined by the Fire Department.

**146.34 RESPONSIBILITIES OF PARK MANAGEMENT.** The mobile home park owner shall operate the park in compliance with this chapter and regulations issued hereunder and maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

[The next page is 715]

## CHAPTER 147

### FIRE ZONE

147.01 Fire Zone Established  
147.02 Plans Submitted  
147.03 Buildings Prohibited  
147.04 Construction Standards

147.05 Reconstruction Prohibited  
147.06 Special Permit  
147.07 Removal of Buildings  
147.08 Storage of Materials Restricted

**147.01 FIRE ZONE ESTABLISHED.** A Fire Zone is established to include all of the following territory:

Beginning at a point at the west end of the alley in Block Ten (10) connecting Park Street and Greene Street, thence east along the alley to Greene Street, thence north on Greene Street, to the lot line between lots Thirteen (13) and Fourteen (14), thence east on the said lot line to the alley connecting Latham Street and Dows Street, thence south on the alley to a point twelve and one-half (12-1/2) feet north of lot Sixteen (16) in Block Six (6), thence west to Greene Street, thence south on Greene Street to Dows Street, thence west on Dows street to Park Street, thence north on Park Street to the point of beginning.

**147.02 PLANS SUBMITTED.** It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

**147.03 BUILDINGS PROHIBITED.** The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

**147.04 CONSTRUCTION STANDARDS.** The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

**147.05 RECONSTRUCTION PROHIBITED.** Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

**147.06 SPECIAL PERMIT.** The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not

increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

**147.07 REMOVAL OF BUILDINGS.** Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

**147.08 STORAGE OF MATERIALS RESTRICTED.** No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

[The next page is 731]

## CHAPTER 150

### TREES

150.01 Definition

150.02 Planting Restrictions

150.03 Duty to Trim Trees

150.04 Trimming Trees to be Supervised

150.05 Disease Control

150.06 Inspection and Removal

**150.01 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.

**150.02 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 or black walnut.

**150.03 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])*

**150.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 150.03, 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.

**150.05 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.

**150.06 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 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

[The next page is 751]



## CHAPTER 160

# FLOODPLAIN MANAGEMENT

160.01 Definitions

160.02 Statutory Authority, Findings of Fact and Purpose

160.03 General Provisions

160.04 Administration

160.05 Establishment of Zoning (Overlay) Districts

160.06 Standards for Floodplain (Overlay) District

160.07 Appointment and Duties of Board of Adjustment

160.08 Nonconforming Uses

160.09 Penalties for Violations

160.10 Amendments

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood.”)
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
  - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Subsection 160.06(2)(D)(1) of this ordinance, and

- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
  - D. The enclosed area is not a “basement” as defined in this section.
7. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community.
8. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park or subdivision” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “Five Hundred (500) year flood” means a flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

13. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

14. “Flood insurance rate map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

15. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

16. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.

17. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

18. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

19. “Floodway” means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

20. “Floodway fringe” means those portions of the Special Flood Hazard Area outside the floodway.

21. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

22. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily

determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved State program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

23. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of enclosed area below lowest floor are met.

24. “Maximum damage potential development” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

25. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.

26. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

27. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.

28. “Recreational vehicle” means a vehicle which is:

A. Built on a single chassis;

- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. “Routine maintenance of existing buildings and facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window panes;
  - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
30. “Special flood hazard area” (SFHA) means the land within a community subject to the “base flood.” This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual

start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

33. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

36. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

**160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.**

1. The Legislature of the State of Iowa has in Chapter 414, *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact.
  - A. The flood hazard areas of the City of Walker are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
  - C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.
3. Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the City of Walker and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.02(2)(A) of this ordinance with provisions designed to:
  - A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
  - B. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
  - C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

### **160.03 GENERAL PROVISIONS.**

1. **Lands to Which Ordinance Apply.** The provisions of this ordinance shall apply to all lands within the jurisdiction of the City of Walker which are located within the boundaries of the Floodplain (Overlay) District as established in Section 160.05.
2. **Establishment of Official Floodplain Zoning Map.** The Flood Insurance Rate Maps (FIRM) for Linn County and Incorporated Areas, City of Walker Panels 19113C0016E, 0017E, 0018E, 0019E dated July 20, 2021 which were prepared as part of the Flood Insurance Study for Linn County, are hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Linn County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.
3. **Rules for Interpretation of Floodplain (Overlay) District.** The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
4. **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.
5. **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.



6. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability. The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Walker, or any officer or employee thereof for any flood damages that result from reliance on this ordinance or on any administrative decision lawfully made thereunder.

8. Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

#### **160.04 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of Local Official.
  - A. The Zoning Administrator is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
  - B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
    - (1) Review all floodplain development permit applications to assure that the provisions of this ordinance will be satisfied.
    - (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
    - (3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this ordinance.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

- a. Development placed within the floodway results in any of the following:
  - i. An increase in the base flood elevations; or
  - ii. Alteration to the floodway boundary.
- b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
- c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this ordinance.

(11) Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as

well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain development permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this ordinance.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this ordinance and shall approve or disapprove the application.

For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain development permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

#### **160.05 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS.**

The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

1. Floodplain (Overlay) District – those areas identified as Zone A on the Official Floodplain Zoning Map.

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as permitted uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

#### **160.06 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT.**

1. Permitted Uses.
  - A. All development within the Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodplain District.
  - B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department

of Natural Resources with sufficient technical information to make the determination.

C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

- (1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and
- (2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All development shall:

- (1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.
- (2) Use construction methods and practices that will minimize flood damage.
- (3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided

with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Non-Residential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

Such areas shall be use solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Factory-Built Homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the *State Building Code*.

F. Utility and Sanitary Systems.

(1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of Equipment and Materials. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivision. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.



K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.

b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of Section 160.06(2)(D)(1) of this ordinance.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of Section 160.06(2)(E) of this ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.06(2)(E) of this ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where a 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

**160.07 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.**

1. Appointment and Duties of Board of Adjustment. The Board of Adjustment, is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this ordinance, and shall take any other action which is required of the Board

2. Appeals. Where it is alleged that there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variance. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

D. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an appeal or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 160.07(4)(B)(2).

(1) Factors Upon Which the Decision of the Board of Adjustment Shall Be Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this ordinance and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other land or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

- e. The importance of the services provided by the proposed facility to the City.
  - f. The requirements of the facility for a floodplain location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - m. Such other factors which are relevant to the purpose of this ordinance.
- (2) Conditions Attached to Variances. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance. Such conditions may include, but not necessarily be limited to:
- a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the

Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this ordinance.

e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

#### **160.08 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 160.08(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

**160.09 PENALTIES FOR VIOLATION.** Violations of the provisions of this ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred dollars) or imprisoned for not more than 30 (thirty) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of Walker from taking such other lawful action as is necessary to prevent or remedy violation.

**160.10 AMENDMENTS.** The regulations and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

*(Ch. 160 – Ord. 352 – Jun. 21 Supp.)*

[The next page is 785]



## CHAPTER 161

# PROPERTY MAINTENANCE REGULATIONS

161.01 Purpose

161.03 Severability

161.02 International Property Maintenance Code Adopted

**161.01 PURPOSE.** The purpose of this chapter is to establish rules and regulations for property maintenance in the City of Walker.

**161.02 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.** The City of Walker hereby adopts International Property Maintenance Codes, edition currently adopted by Linn County Health Department, to regulate and govern the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Walker.

**161.03 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.

*(Ch. 161 – Ord. 362 – Oct. 21 Supp.)*

[The next page is 805]

## CHAPTER 165

# ZONING REGULATIONS

165.01 Purpose	165.17 Livestock
165.02 Accord With Comprehensive Plan	165.17A Urban Chickens
165.03 Definitions	165.18 Commercial Animal Farming
165.04 Establishment of Districts	165.19 Review By Board of Adjustment
165.05 Official Zoning District Map	165.20 Administration and Enforcement
165.06 Amending Official Zoning District Map	165.21 Board of Adjustment
165.07 Replacing Official Zoning District Map	165.22 Nonconforming Buildings and Uses
165.08 Application of Regulations	165.23 Nonconforming Accessory Uses, Structures and Buildings
165.09 Permit Required	165.24 Discontinuance or Abandonment of a Nonconforming Use
165.10 Class A Residential Districts	165.25 Termination of Certain Nonconforming Uses and Structures
165.11 Class B Residential Districts	165.26 Amendments
165.12 Class A General Business District	165.27 Violations
165.13 Class B General Business District	165.28 Interpretation of Regulations
165.14 Class A Industrial Districts	
165.15 Class A Agricultural Districts	
165.16 Hedges, Fences and Walls	

**165.01 PURPOSE.** The purpose of this chapter is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the public health, safety, comfort, convenience and general welfare of the people in the City.

**165.02 ACCORD WITH COMPREHENSIVE PLAN.** The standards and requirements contained in this chapter, and the district mapping reflected on the Walker Zoning District Map, have all been made in accordance with the Comprehensive Plan for the City prepared by the Planning and Zoning Commission for the City.

**165.03 DEFINITIONS.** As used in this chapter, the word “lot” includes the word “parcel or tract.” The words “used” and “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.” If adjoining lots are used for the same purpose by the same owner, the adjoining lots shall be considered as one lot. In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control. The following terms or words used herein shall be interpreted or defined as follows:

1. “District” means any section or area of the City for which the regulations governing the use of buildings and premises and related matters are uniform.
2. “Dwelling” means a building, or portion thereof, not a mobile home, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels or motels.

3. “Dwelling, single-family” means a building containing one dwelling unit only.
4. “Dwelling, two-family” means a building containing two dwelling units.
5. “Dwelling, multiple-family” means a building, or portion thereof, containing three or more dwelling units.
6. “Dwelling unit” means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used, for living, sleeping, cooking, eating, and sanitation, by one family.
7. “Family” means one or more persons, each related to the other, by blood, marriage, adoption, legal guardianship or as foster parent-child relationship, who are living together in a single dwelling unit and maintaining a common household. Not more than five (5) persons not so related living together in a single dwelling unit may constitute a “family.”
8. “Manufactured home” means a factory-built, single family structure which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is to be used as a place for human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and which does not have wheels or axles permanently attached to its body or frame. For the purposes of this chapter, a manufactured home shall be considered as a single family detached dwelling. A manufactured home is the same as a mobile home except a manufactured home must meet the above cited U.S. Code requirements. It also must meet the State of Iowa requirements including the nonpermanent hitch, wheels and axle as stated herein, and is also subject to additional local requirements which are also generally more stringent than requirements for mobile homes.
9. “Mini warehouse facilities” means a building or group of buildings which are rented and designed, through individual compartments or controlled stalls for self-service storage purposes.
10. “Mobile home” means a factory-built structure which is transportable in one or more sections, is built on a permanent chassis, and is so designed and constructed to permit lawful occupancy as a dwelling whether attached or unattached to a permanent foundation. A mobile home may have wheels, axles, hitch and other appurtenances of

mobility removed, but shall remain a mobile home; provided, however, that a mobile home may be classified as a “manufactured home” and be so regulated if it meets all the standards and qualifications contained within this chapter’s definition of “manufactured home.”

11. “Modular home” means factory-built certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

12. “Permanent foundation” means a foundation that is engineered, site constructed of durable materials such as concrete, mortared masonry or treated wood, and meets the requirements of the HUD Permanent Foundation Guide for Manufactured Housing for ground support, uplift, overturning and lateral displacement, and is placed below the frost level to prevent heaving. A permanent foundation must have attachment points and connections that transfer all loads to the underlying soil or rock, and must be provided with a perimeter enclosure.

13. “Salvage yard” means a lot or portion thereof where waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building.

14. “Schedule of fees” means a Schedule of Permit Fees set by City Council resolution which may be changed periodically after review by the Planning and Zoning Commission.

15. “Self-service storage facility” means real property designed and used for the purpose of renting or leasing individual storage space for the purpose of storing personal property.

16. “Structure” means:

A. Anything constructed, erected, or placed with a more or less fixed location on the ground or attached or resting on something having a fixed location on the ground.

B. Hedges, Fences, and Walls. (See Section 165.16)

C. Portable Buildings and Satellite Dishes. A detached accessory building or dish larger than 24 inches diameter:

(1) Shall not be closer than 10 feet to a principal building or to another accessory building on the same lot.

Distances between such buildings shall be measured horizontally between the closest building walls.

- (2) Shall not be closer than 5 feet to any lot line.
- (3) Shall not be located in a required front yard.
- (4) If located partially or completely in a required rear yard, shall not exceed 15 feet in height or occupy more than 40% of the required yard.
- (5) Shall not exceed 15 feet in height or occupy more than 40% of the non-required side yard and shall meet the minimum side yard requirements established for the principal building to which it is accessory unless it is located totally outside of the area of a required side yard. In such case the accessory building may be located within three (3) feet of the side lot line.

17. “Yard” means a required open space on a lot between a lot line and a building or structure located on the lot, unoccupied and unobstructed from ground to sky, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the building line or any projection thereof excluding steps shall be used. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has the least dimension.

18. “Yard, front” means a yard extending across the full width of the lot between the front lot line and the building line, or any projection thereof excluding steps and gutters. Permitted encroachments in front yard include open decks, but not permanently roofed-over or enclosed decks, which may extend no more than seven (7) feet into the required front yard.

19. “Yard, rear” means the yard extending across the full width of the lot between the rear lot line and the building line or any projection thereof excluding steps and gutters.

20. “Yard, side” means a yard between the side lot line and the building line or any projections thereof, excluding steps and gutters, and extending from the front yard to the rear yard.

**165.04 ESTABLISHMENT OF DISTRICTS.** The City is divided and classified into the following zoning districts:

Class A Residential District: single-family or two-family dwellings.

Class B Residential District: multiple-family residential dwellings.

Class A General Business District (Outside of Downtown Business District): retail businesses.

Class B General Business District: retail businesses

Class A Industrial District: any type of manufacturing or other similar plant area.

Class A Agricultural District: Customary agriculture operations.

**165.05 OFFICIAL ZONING DISTRICT MAP.** As shown by the official zoning district map, the City is divided into six (6) classes of districts. The boundaries of these districts are hereby established as shown on the official zoning district map of the City and said map and all notations, references and other information shown thereon shall be and are hereby made a part of this chapter by reference. The official zoning district map, signed by the Mayor and properly attested by signature of the Clerk and date of adoption, shall be and remain on file in the office of the City Clerk.

**165.06 AMENDING OFFICIAL ZONING DISTRICT MAP.**

Amendments, supplements or changes of the boundaries of districts as shown on the official zoning district map shall be made by an ordinance amending the Zoning Ordinance. The amending ordinance shall refer to the official zoning district map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the Clerk as other ordinances and a certified copy thereof shall be attached to the official zoning district map. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The official zoning district map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. *(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

**165.07 REPLACING OFFICIAL ZONING DISTRICT MAP.** In the event that the official zoning district map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may by ordinance adopt a new official zoning district map which shall supersede the prior map. The new official zoning district map may correct drafting or other errors or omission in

the prior map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new official zoning district map shall be identified by date and the signature of the Mayor attested by the Clerk, under the following words: "This is to certify that this Official Zoning District Map supersedes and replaces the Official Zoning District Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Walker, Linn County, Iowa."

**165.08 APPLICATION OF REGULATIONS.** All buildings and structures erected hereafter, all uses of land or buildings established hereafter, all alterations or relocations of existing structures occurring hereafter, and all enlargements of, additions to, changes in, and relocations of existing uses occurring hereafter are subject to all regulations of this chapter which are applicable to the districts in which such buildings, structures, and uses or land are located. Existing buildings, structures, and uses which do not comply with the regulations of this chapter shall be allowed to continue subject to the provisions of this chapter relating to nonconformities.

1. All fuel, oil or similar substances shall be stored in conformance with State regulations governing same.
2. All buildings subject to historical preservation as defined by the Code of Iowa must follow State and Federal guidelines in historical preservation.
3. No building or structure available for use by the general populace shall be built or altered unless it complies with the American Disability Act.
4. All child care for nonresidential children shall follow State Code and administrative rules as defined in Iowa Code Chapter 237A.

**165.09 PERMIT REQUIRED.** No land shall be used or occupied, and no structure hereafter erected, reconstructed, altered or extended until a permit shall have been approved by the Zoning Administrator. The permit shall be applied for in writing, on a form provided by the City Clerk, and accompanied by plans and specifications sufficient to determine compliance with all applicable laws of the State of Iowa and all ordinances of the City, and with the applicable fee as set forth in the Schedule of Fees. The application shall be made to the Zoning Administrator. The Zoning Administrator shall act on said permit within fifteen (15) days of receipt. If not acted upon within 15 days, said application is deemed approved. Approval or denial of said application will be considered rendered to applicant when deposited in the U.S. mail with postage prepaid. Application denied will be returned to applicant. Applicant may appeal to the Board of Adjustment. Permit shall be posted on structure



following rules on the permit. A penalty in the amount of fifty percent (50%) of the permit fee will apply if construction is started prior to the issuance of a permit. *(Ord. 333 – Jan. 17 Supp.)*

#### **165.10 CLASS A RESIDENTIAL DISTRICTS.**

1. Permitted Uses. The following uses of land are permitted in all Class A Residential Districts:

- A. One- and two-family dwelling units, but excluding mobile homes.
- B. Churches and places of worship and parochial schools.
- C. Public schools, public libraries, parks and playgrounds.
- D. Home Occupations. Regulations dealing with home occupations are designed to protect and maintain the residential character of a neighborhood while permitting certain limited commercial activities which have traditionally been carried out in a home. The following limitations apply to home occupation activities:

- (1) No person who is not a member of the immediate family and residing on the premises shall be employed in the activity on the premises.
- (2) The activity shall be conducted entirely within the principal dwelling unit or in a permitted accessory building.
- (3) The activity shall not involve any outside storage nor in any way create, outside the building, any external evidence of the operation.
- (4) No alteration of a building shall be made which changes the character and appearance thereof as a residential building.
- (5) No activity shall be permitted which is noxious, offensive or hazardous by reason of pedestrian or vehicular traffic, or by creation of noise, odor, refuse, heat, vibration, smoke, radiation or any other objectionable emissions, or by interference with television or radio reception.
- (6) There shall be no signs or other evidence of such use other than one small announcement or professional sign not over two (2) square feet in size and which shall be not less than one-half of the front yard depth distance from lot line.

Permitted home occupations include, but are not limited to the following list of activities, provided, however, that each permitted home occupation shall be subject to the limitations listed above in this paragraph D and to all other regulations applicable to the district in which it is located.

- Facilities used by a physician, surgeon, dentist, lawyer, clergyman, or other professional person, for emergency consultation or treatment, but not for the general practice of such person's profession.
  - Renting of rooms by a resident owner to no more than two roomers.
  - Barber and beauty shops.
  - Other customary accessory uses and buildings provided such uses are incidental to the principal use and do not include any activity conducted as a business.
2. Density of Population. Lot area shall not be less than 6,000 square feet and lot width not less than 50 feet. There shall be no more than one dwelling placed on each lot of the above size.
3. Yards and Open Spaces. Each lot shall have front, side and rear yards not less than the following depth and width.
- A. Front yard depth:
- (1) Lots with dwellings existing prior to July 1, 1986, may use front yard depth existing prior to July 1, 1986.
- (2) Lots with dwellings constructed after July 1, 1986, required front yard depth is 25 feet for all structures.
- B. Each side yard width – 8 feet for all buildings.
- C. Rear yard depth –25 feet for dwellings; 5 feet for garages, structures or accessory buildings.
- D. The following shall apply for Neumeyer's Addition and Chrystal's Second Addition and all future platting. Where a lot is located at the intersection of two or more streets, the width of the yard along the side street should not be less than 25 feet.
- E. Schools, churches, public buildings and institutional buildings shall maintain 25-foot side yards.
4. Foundations. Must have permanent foundation for main body.

5. Minimum Dimension and Floor Area.
  - A. Have a measured minimum width dimension of twenty-four (24) feet for the main body.
  - B. Have a minimum floor area of 770 square feet.
6. Exterior Wall Covering. Either wood or masonry finish, or its appearance and/or vertical or horizontal grooved or lap siding, or its appearance.

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**165.11 CLASS B RESIDENTIAL DISTRICTS.**

1. Permitted Uses. The following uses of land are permitted in all Class B Residential Districts:
  - A. All uses permitted in Class A Residential Districts subject to restrictions specified in Class A Residential Districts.
  - B. Mobile homes.
  - C. Multiple dwelling units, including rooming and boarding houses.
  - D. Hospitals and sanitariums.
  - E. One sign advertising the sale or rent of buildings. Such sign shall not exceed two (2) square feet in size and shall be not less than one-half the front yard distant from the lot line.
  - F. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business, unless otherwise provided for.
2. Density of Population. Lot area for one- and two-family dwelling units shall be not less than 6,000 square feet and lot width not less than 50 feet, plus an additional 1,000 square feet for each unit over two.
3. Yards and Open Spaces. Each lot shall have front, side and rear yards not less than the following depth and width:
  - A. Front yard depth.
    - (1) Lots with dwellings existing prior to July 1, 1986, may use front yard depth existing prior to July 1, 1986.
    - (2) Lots with dwellings constructed after July 1, 1986, required front yard depth is 25 feet for all structures.
  - B. Each side yard width –8 feet for all buildings.
  - C. Rear yard depth –25 feet for residence and 5 feet for garage or accessory building.
4. Off-Street Parking: In connection with every multiple-family dwelling, there shall be provided off-street automobile storage or parking space to accommodate not less than two (2) vehicles for each family unit in such structure; however, no front yard shall be used for the open air parking or storage of any motor vehicle.

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**165.12 CLASS A GENERAL BUSINESS DISTRICT.**

1. Permitted Uses. The following regulations and uses permitted shall apply to all Class A General Business Districts (outside of Downtown Business District):

A. All the uses permitted in Class A Residential Districts and Class B Residential Districts subject to restrictions specified in Class A Residential and Class B Residential Districts.

B. Stores and shops for the conducting of any lawful retail business.

C. Personal service shops.

D. Banks, theaters, offices, restaurants.

E. Garages and filling stations upon the approval of the Board of Adjustment and subject to such conditions and safeguards as deemed appropriate by such board and upon the securing of a permit therefor, subject to the following provisions: Pumps, lubricating or other devices shall be located at least twenty (20) feet from any street or highway right-of-way.

F. Other uses permitted:

- Advertising signs and billboards
- Amusement places
- Apartment houses
- Auction rooms
- Bakeries
- Blacksmith and locksmith shops
- Electric repair shops
- Freight stations
- Hotels
- Laundries
- Mini-Warehouse Facilities
- Mortuaries or Funeral Homes
- Painting and decorating shops
- Photographic galleries
- Plumbing shops
- Police and fire department stations
- Post offices
- Printing shops
- Recreation buildings and structures
- Roofing and plastering shop or both

- Sales and/or showrooms
  - Self-storage facilities
  - Shoe repair shops
  - Other uses which in the opinion of the Board of Adjustment are of the same general character as those listed above as permitted uses and which will not be detrimental to the district in which they are located.
2. Required Dimensions. Lot dimensions shall not be less than 50 feet in width and 125 feet in depth.
  3. Yards and Open Spaces. No building or structure shall be closer than ten (10) feet to any lot line.



**165.13 CLASS B GENERAL BUSINESS DISTRICT.** The following regulations and uses permitted shall apply in the Class B General Business District (Downtown Business District) which is described as follows:

Beginning at a point at the west end of the alley in Block Ten (10) connecting Park Street and Greene Street, thence east along the alley to Greene Street, thence north on Greene Street, to the lot line between lots Thirteen (13) and Fourteen (14), thence east on the said lot line to the alley connecting Latham Street and Dows Street, thence south on the alley to a point twelve and one-half (12½) feet north of lot Sixteen (16) in Block Six (6), thence west to Greene Street, thence south on Greene Street to Dows Street, thence west on Dows Street to Park Street, thence north on Park Street to the point of beginning

1. Permitted Uses. All the uses permitted in Class A Residential District, Class B Residential District and Class A General Business District (outside of Downtown Business District), subject to restrictions specified in Class A Residential, Class B Residential, and Class A General Business District, and subject to the following restrictions.
2. Construction Regulations. The erection of all buildings or structures of every kind, and additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited within Class B General Business District unless the roof is constructed of fireproof material, and the outer walls and steps are constructed of brick, stone, tile, concrete, cement, mortar or other fire resistant material.
3. Required Dimensions. Lot dimensions shall not be less than 25 feet in width and 125 feet in depth.
4. Yard Required. There shall be a rear yard of not less than ten percent (10%) of the depth of the lot.

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**165.14 CLASS A INDUSTRIAL DISTRICTS.**

1. Permitted Uses. The following regulations and uses permitted shall apply in all Class A Industrial Districts.

A. All uses not otherwise prohibited by law except any residential use, or uses otherwise prohibited by ordinance.

B. Salvage yards, which include junk yards or automobile wrecking yards, commercial scrap iron, scrap paper or rag storage operations, must be entirely screened to obscure the business from view from adjacent streets and roads, or be by other means concealed as approved by the Board of Adjustment. Materials for use in screening of salvage yards shall generally consist of natural objects, plantings, fences, or other appropriate means such as storage sheds, buildings and other similar elements.

(1) Natural objects shall be earthen berms, rock formations, wooded areas, or other similar elements.

(2) Plantings shall be shrubs and trees of such types as to provide year-round obscurement commensurate with local site conditions. All plant material used for screening shall be of a size and quantity to provide obscurement.

(3) Screens shall be made of wood, metal or other materials commonly used in the buildings trade, and shall be of such height and type as necessary to provide obscurement. Screens shall be designed to withstand a minimum wind load of twenty (20) pounds per square foot and shall be of a permanent nature. All materials used for finishing screens shall be a non-reflective material which will blend with the natural surroundings. Screening shall not be placed in any manner so that either the screen or the maintenance of the screen will create or contribute to the creation of a safety hazard or endanger public safety or interfere with the public's use or the City's maintenance of the street.

(4) The owner or operator of a salvage yard shall maintain the screening in a condition equal to the original installation of the screening. Maintenance shall include (but not be limited to) the following items:

a. Replacement of plant material which is dead or has been damaged so that it no longer serves the intended purpose of screening the salvage yard.

b. Screen maintenance shall include the renewal of the surface treatment with stains, paints, or other appropriate material as specified in paragraph B of this subsection when needed and the replacement of panels, sections, members or support structures of the screening when needed.

C. The wholesale or bulk storage of petroleum and other explosive or combustible materials or hazardous substances is permitted subject to conformance with all State regulations, local fire and safety ordinances, and such other regulations issued by the Fire Chief pertinent to the storage of such products.

2. Yards and Open Spaces. No building or structure shall be closer than ten (10) feet to any lot line.

3. Uses Prohibited. All use of land, buildings and structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions. Prohibited uses shall include (but not be limited to) those which have been declared a nuisance in any court of record, or which may be unreasonably obnoxious, unhealthful or offensive by reason of emission of odor, dust, smoke or noise.

**165.15 CLASS A AGRICULTURAL DISTRICTS.**

1. Permitted Uses.
  - A. All uses permitted in Class A Residential Districts and Class B Residential Districts subject to restrictions specified in Class A Residential Districts and Class B Residential Districts.
  - B. Customary agricultural operations including a garden, nursery, greenhouse, and usual farm buildings, subject to the following restrictions.
    - (1) No building in which farm animals are kept shall be closer than 200 feet to any adjoining lot line.
    - (2) No storage of manure or odor or dust-producing substance or use shall be permitted within 200 feet of any adjoining lot line.

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**165.16 HEDGES, FENCES AND WALLS.**

1. Residential Class A and Class B. Fences, hedges or walls shall not exceed four (4) feet in height in any required front yard and shall not exceed six (6) feet in height in any required side or rear yard. Nothing shall be erected, placed, planted, or allowed to grow on a corner lot in such a manner as to significantly impede vision between a height of three feet (3) and ten (10) feet above the centerline street grades of the area described as follows: that triangular shaped area bounded by the street or road right-of-way lines of a corner lot or tract and a straight line joining points on said right-of-way lines that are twenty-five (25) feet from the point of intersection of said right-of-way lines. No hedge, fence or wall exceeding a height of 6 feet above ground level shall be erected in a required yard or along a lot line when said yard or lot line is within, or abuts, a residential district. Within or abutting all other districts their maximum height within a required yard or along a lot line shall be 10 feet. No opaque fence, wall, or dense shrubs, when located in a required front yard or within 25 feet of a street right-of-way, shall exceed a height of 3 feet. In the case of retaining walls or supporting embankments, the above requirements shall apply only to that part of the wall above ground surface of the retained embankment.

2. Class A and B General Business Districts and Class A Industrial District. No fence, hedge or wall shall be placed in any manner so that the fence, hedge or wall creates or contributes to the creation of a safety hazard or endangers public safety or interferes with the public's use or the City's maintenance of the street.

3. Construction. In all cases fences shall be constructed with the best side facing the neighboring land user.

4. Permit Required. No fence shall be erected, reconstructed, altered or extended until a permit shall have been approved by the Zoning Administrator. The permit shall be applied for in writing, on a form provided by the City Clerk and accompanied by plans and specifications sufficient to determine compliance with all applicable laws of the State of Iowa and all ordinances of the City, and with the applicable fee as set forth in the Schedule of Fees. The application shall be made to the Zoning Administrator. Zoning Administrator shall act on said permit within fifteen (15) days of receipt. If not acted upon within 15 days, said application is deemed approved. Approval or denial of said application will be considered rendered to applicant when deposited in the U.S. mail with postage prepaid. Application denied will be returned to applicant.

**165.17 LIVESTOCK.** The keeping of pigs, sheep, goats, cattle, or horses is prohibited in Class A Residential, Class B Residential, Class A General Business District, Class B General Business District, and Class A Industrial District. This shall not be construed as to prohibit the summer pasturing (April 1 to November 1) of livestock in fenced lots unoccupied by dwellings in Class A General Business District and Class A Industrial District so long as no shelter of either temporary or permanent nature is constructed and a permit is obtained from the Board of Adjustment. *(Ord. 314 – Feb. 14 Supp.)*

**165.17A URBAN CHICKENS.**

1. Definitions.
  - A. “Coop” means a cage, enclosure or building used for housing and protecting chickens from weather and predators.
  - B. “Nesting box” means a three-sided box with floor where chickens rest and lay eggs.
  - C. “Pen” means an enclosure for chickens which allows freedom of movement but also prevents escape.
  - D. “Permitted tract of land” means the tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this section.
  - E. “Permittee” means an applicant who has been granted a permit to raise, harbor or keep chickens pursuant to this section.
  - F. “Permitting officer” means the Mayor or designee.
  - G. “Roost” means a support where chickens rest.
  - H. “Rooster” means a male chicken.
  - I. “Single family dwelling” means any building that contains only one dwelling unit used and is owner occupied.
  - J. “Tract of land” means a property or a zoned lot that has one single family dwelling located on that property or zoned lot.
  - K. “Urban chicken” means a member of the subspecies *Gallus gallus domesticus*, a domesticated chicken kept on a permitted tract of land pursuant to a permit issued under this section.
2. Permit Required.
  - A. Permit Required. No person shall raise, harbor or keep chickens within the City of Walker without a valid permit obtained from the permitting officer under the provisions of this section.



B. Application. In order to obtain a permit, an applicant must submit an application on forms provided by the permitting officer, and paying all fees required by this section.

C. Requirements. The requirements to the receipt of this permit include:

- (1) The tract of land to be permitted shall contain only one single family dwelling occupied and used as such by the permittee.
- (2) The application is complete.
- (3) There are no outstanding violations of local, State or Federal law on the property.
- (4) All fees are paid in full.
- (5) If it is a renewal, annual fees have been paid in full.
- (6) All of the requirements of this section have been met.
- (7) The applicant has successfully completed an approved class on chicken husbandry. The permitting officer shall maintain a current list of such approved classes.
- (8) The permittee grants the City the right to inspect the coop and pen one year after the permit is issued and at any other time to investigate a complaint.
- (9) The permittee should follow the City Code and State law regarding animal care.
- (10) The permit is a limited license for the activity and no vested zoning rights arise from the permit being issued. The permit does not run with the land.
- (11) Private restrictions on the use of property shall remain enforceable and shall supersede the permit. The private restrictions include, but are not limited to, deed restrictions, condominium restrictions, neighborhood association bylaws, covenants and restrictions, and rental agreements. A permit issued to a person whose property is subject to private restrictions that prohibit keeping chickens is void.

D. Issuance of Permit. If the permitting officer concludes as a result of the information contained in the application that the

requirements of the permit have been met, then the officer shall issue the permit.

E. Denial, Suspension, Revocation, Non-renewal. The permitting officer may deny, suspend, revoke, or decline to renew permit issued for any of the following grounds:

(1) False statements on any application or other information or report required by this section to be given by the applicant.

(2) Failure to pay any application, penalty, or reinstatement fee required by this section or City Council resolution.

(3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.

(4) Failure to comply with the provisions of an approved mitigation/remediation plan by the permitting officer or designee.

(5) Failure to comply with any provision of this section.

(6) A permittee may appeal the revocation to the City Council.

(7) A violation of Chapter 165.17A is a municipal infraction as provided in Chapter 3 of the Code of Ordinances for the City of Walker, Iowa.

F. Notification. A decision to revoke, suspend, deny or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address specified on the application. The notification shall specify reasons for the action.

G. Effect of Revocation, etc. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one year from the date of denial or revocation.

3. Site Requirements.

A. The property must be a single family dwelling and owner-occupied.

B. Coops cannot be located within 25 feet of any habitable structure on the applicant's property or adjoining property.

C. Coops cannot be located within 5 feet from the rear of the property line and 8 feet on each side yard.

- D. Coops and pens shall be located only in the backyard.
4. Chicken Requirements.
- A. No more than 6 hens are allowed.
  - B. Roosters are prohibited.
  - C. Chickens must be housed in a coop from dusk until dawn.
  - D. Selling of eggs, chickens, and manure for fertilizer is prohibited.
  - E. Eggs shall be removed within 2 days of being laid.
  - F. All chicken feed and other items associated with the keeping of chickens shall be protected in a manner to prevent rodents, wild birds, and predators from gaining access or coming into contact with them.
  - G. Adequate food, water, and shelter should be provided at all times.
  - H. The permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
  - I. Any slaughter of chickens not regulated by State law or otherwise forbidden or regulated shall be done in only a humane and sanitary manner and shall not be done in open view of any public area or adjacent property owned by another.
5. Coop Requirements.
- A. Coops may be mobile, known as “tractors.”
  - B. Coops shall be constructed, repaired, and maintained in a manner to prevent rodents from being harbored underneath or within the wall of the enclosures.
  - C. Coops should be built of solid materials such as wood metals or plastic.
  - D. Coop floors shall be made of wood or cement set a minimum of eighteen (18) inches above the ground level with a slight slope toward the door or other opening to prevent puddling.
  - E. Coops shall have at least one door and window that can be opened for ventilation.
  - F. A minimum of 4 square feet of space shall be provided per chicken inside the coop, but shall not be any larger than twelve (12) square feet of area per chicken.

- G. Bedding shall consist of wood pellets, pine shavings or similar material to reduce odor. Straw may not be used for bedding.
- H. Feces shall be removed and disposed of in a sealed, enclosed container at a minimum of once weekly to avoid odor.
- I. Coops shall:
- (1) Be maintained to ensure proper sanitation for maintaining the health of the chickens and the keepers.
  - (2) Be easy to clean with good drainage.
  - (3) Protect the flock from extreme temperatures and wind.
  - (4) Keep out rodents, raptors, and other predatory animals.
  - (5) Be well ventilated.
  - (6) Be free of drafts and maintain a uniform temperature.
  - (7) Have a roosting area sufficient in number and size for the chickens present.
  - (8) Have one nesting box per chicken.
  - (9) Have nests that entice hens to lay indoors.
  - (10) Offer plenty of light both natural and artificial.
  - (11) Provide heat in colder temperatures.
  - (12) Include sanitary feed and water stations.
6. Pen Requirements.
- A. There shall be a minimum space of four square feet of space per chicken.
- B. Fence for the pen must be at least four feet in height and constructed of wood, chicken wire or heavy gauge mesh wire.
- C. There must be a well drained area that allows the chickens to have access to dry ground at all times.
- D. Feces shall be removed and disposed of in a sealed, enclosed container at a minimum of once weekly to avoid odor.
- E. Fecal matter may be used as fertilizer if turned completely into the soil at least once weekly and there is no noxious odor.

7. Waste Storage and Removal.
  - A. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure.
  - B. No more than 3 cubic feet of manure shall be stored on the permitted tract of land.
  - C. All other manure not used for composting or fertilizing shall be removed.
  - D. The hen house, chicken tractor, chicken pen and surrounding area must be kept free from trash and accumulated droppings.
  - E. Uneaten food shall be removed in a timely manner.
8. Odor and Noise Impacts.
  - A. Odors from chickens, chicken manure or other chicken related substances shall not be perceptible beyond the permitted tract of land.
  - B. Noise from chickens shall not be loud enough beyond the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.
9. Chickens at Large. The permittee shall not allow the permittee's chickens to roam off the permitted tract of land. No dog, cat or domesticated animal which kills a chicken off the permitted tract of land will, for that reason alone, not be considered a dangerous or aggressive animal or the City's responsibility to enforce its animal control provisions.
10. Fees. The fee for such permit shall be ten dollars (\$10.00) each year. Permits will be granted for one year valid January 1 – December 31. Permits may be purchased at any time during the year, but will be valid only through December 31.

*(Ord. 314 – Feb. 14 Supp.)*

**165.18 COMMERCIAL ANIMAL FARMING.** The keeping of small meat and fur bearing animals for commercial purpose is prohibited in Class A Residential, Class B Residential, Class A General Business District, and Class B General Business District, but may be allowed in Class A Industrial District in buildings or accessory buildings under such sanitary conditions as the Linn County Board of Health or City Veterinarian shall prescribe.

**165.19 REVIEW BY BOARD OF ADJUSTMENT.** The Board shall not grant a variance unless it shall make findings based upon the evidence

submitted in each specific case that a special condition or conditions exist to the degree that a literal enforcement of the provisions of this chapter will result in an unnecessary hardship, and that granting such variance will not be contrary to the public interest or to the spirit and intent of this chapter.

**165.20 ADMINISTRATION AND ENFORCEMENT.** This chapter shall be enforced and administered by the Mayor.

**165.21 BOARD OF ADJUSTMENT.** The Board of Adjustment shall consist of five (5) members, each to be appointed by the Council for a term of five (5) years. A majority of members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Any vacancy occurring on the Board of Adjustment, caused by resignation or otherwise, shall be filled in the same manner as the original appointment for the unexpired term. All members of the Board of Adjustment shall serve without compensation except their actual expenses which shall be subject to the approval of the Council. The board shall elect a Chairperson from its membership, and appoint a Secretary. The board shall not carry out its business without having a majority of members present. Matters of procedure, powers and judicial review relating to the board are regulated by statute.

**165.22 NONCONFORMING BUILDINGS AND USES.** The lawful use of any building or land existing at the time of the enactment of the Zoning Ordinance may be continued although such use does not conform to the provisions of this chapter, subject to the provisions in Section 165.25.

**165.23 NONCONFORMING ACCESSORY USES, STRUCTURES AND BUILDINGS.** Nonconforming accessory uses, structures and buildings shall be subject to the provisions of this chapter. In addition, a nonconforming use of land, structure, or building which is accessory to a principal nonconforming use or structure shall be discontinued when the nonconforming use of such principal use or structure is discontinued, unless such accessory use of land or structure shall thereafter conform to all the regulations of the district in which it is located.

**165.24 DISCONTINUANCE OR ABANDONMENT OF A NONCONFORMING USE.** If the nonconforming use of a building, structure, or premises is discontinued or vacated for a continuous period of twelve (12) months, it shall not be renewed, and any subsequent use of the building, structure, or premises shall conform to the use regulations of the district in which such building, structure, or premises is located.

**165.25 TERMINATION OF CERTAIN NONCONFORMING USES AND STRUCTURES.** Certain uses involving a high degree of incompatibility and a relatively low amount of investment shall be terminated, or altered, as herein prescribed, following adoption of the Zoning Ordinance.

1. All uses in Class A Industrial District not now in compliance with the provisions of the Zoning Ordinance setting forth specifications for screening shall be altered so as to comply within two years from the date of the official notice from the Zoning Administrator.
2. Nonconforming open storage activities, such as automobile wrecking and salvage, material storage and similar uses wherein no buildings or structures which are used in connection with said use, or when the only buildings or structures or other physical improvements are accessory or incidental to such use, shall be terminated or made conforming within five calendar years from the date of official notice from the Zoning Administrator.

**165.26 AMENDMENTS.** The boundaries of districts as now established and the regulations thereof may be amended, supplemented or changed, or repealed by the Council from time to time, either upon its own motion, or upon a petition as herein provided for, or upon recommendation of the Planning and Zoning Commission, provided:

1. No such amendment, supplement or change shall be adopted until after a notice thereof is duly published as provided by the law of the State of Iowa.
2. Each application for an amendment to this chapter shall be filed with the City Clerk in such form and accompanied by such information as required by the Council and the Planning and Zoning Commission. Each application requesting a change shall be accompanied by a petition stating the change requested and the reason for such change.
3. Action by the Commission. The Planning and Zoning Commission shall review each proposed amendment within 45 days of receipt of any proper application and report its recommendations within 30 days from the date of the public hearing to the Council for final action.
4. Action by the Council. The Council shall not act upon a proposed amendment to the regulations until it has received a recommendation from the Commission on the proposed amendment, unless such recommendation is not received within 90 days from the filing date (date filed with City Clerk).

5. The Clerk shall provide each applicant requesting a change to the Official Zoning District Map for the City with at least two rezoning notifications signs containing the time, date and place of the Planning and Zoning Commission meeting. Said signs shall be clearly posted by the applicant on the property for which a request has been made. At least one sign must be placed so that it may be seen from a street, and in cases of through lots and/or corner lots, a sign shall be posted on both frontages. Notifications signs shall be posted at least nineteen days before the Planning and Zoning Commission meeting, which dates shall be noted on the sign by the Clerk. It shall be the applicant's responsibility to see that said signs remain posted during the entire period.

**165.27 VIOLATIONS.** A violation of the provisions of this chapter is a municipal infraction pursuant to Chapter 3 of this Code of Ordinances and Code of Iowa Section 364.22. Each day that a violation of any provision of this chapter is permitted to exist shall constitute a separate offense. In addition to the rights and remedies provided by Iowa Code Section 364.22, in case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained: or any building, structure, or land is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the Council may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

**165.28 INTERPRETATION OF REGULATIONS.**

1. Minimum Requirements. In their interpretation and application the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.
2. Where the conditions imposed by any provision of this chapter, upon the use of land or buildings or upon the bulk of buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.





[The next page is 875]

## CHAPTER 166

### SUBDIVISION REGULATIONS

166.01 Purpose	166.12 Procedures for Review of Preliminary Plats
166.02 Application	166.13 Duration of Approval of Preliminary Plat
166.03 Recording of Plat	166.14 Authorization To Install Improvements
166.04 Fees Established	166.15 Completion and Acceptance of Improvements
166.05 Penalties	166.16 Performance Bond Permitted
166.06 Building Permit To Be Denied	166.17 Requirements of the Final Plat
166.07 Definitions	166.18 Attachments to the Final Plat
166.08 Improvements	166.19 Procedures for the Review of Final Plats
166.09 Minimum Design Standards	166.20 Variances
166.10 Procedures	166.21 Changes and Amendments
166.11 Requirements of the Preliminary Plat	

**166.01 PURPOSE.** The purpose of this chapter is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety, and general welfare of the citizens of the City.

**166.02 APPLICATION.** Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two (2) or more parts, for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or within two (2) miles from the corporate limits of the City, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

**166.03 RECORDING OF PLAT.** No subdivision plat, resubdivision plat or street dedication within the City or within two (2) miles of the corporate limits of the City, as provided in Chapter 354.9 of the Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after 120 days, unless such plat has been duly recorded and evidence thereof filed with the Clerk within such 120 days.

**166.04 FEES ESTABLISHED.** The Council shall, from time to time, establish by resolution fees for the review of plats. No plat for any subdivision

or resubdivision shall be considered filed with the Clerk unless and until said plat is accompanied by the fee, as established by resolution of the Council, and as required by this chapter.

**166.05 PENALTIES.** Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter, until the plat thereof has been approved by the Council, and recorded as required by law, shall forfeit and pay \$100.00 for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this chapter.

**166.06 BUILDING PERMIT TO BE DENIED.** No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been accepted by the City.

**166.07 DEFINITIONS.** For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.
3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
4. "Auditor's plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.
5. "Block" means the smallest piece or parcel of land entirely surrounded by public highways, streets, streams, tracts of public land, boundary of the subdivision, or other features, or a combination of thereof.
6. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the Council.
7. "Commission" means the City's Planning and Zoning Commission.

8. “Comprehensive Plan” means the plan or series of plans prepared by the City or by the Linn County Regional Planning Commission to guide the development and redevelopment of the City and the surrounding area. Such a comprehensive plan may include a major street plan, land use plan, open space plan or other applicable plan.
9. “Conveyance” means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.
10. “Cul-de-sac” means a street having one end connecting to another street, and the other end terminated by a vehicular turn around with a minimum right of way diameter of 100 feet.
11. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
12. “Easement” means an authorization by a property owner for another to use a designated part of his property for a specified purpose.
13. “Flood hazard area” means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a 100-year flood; as designated by the Iowa Natural Resources Council or the Federal Insurance Administration.
14. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one (1) foot.
15. “Forty-acre aliquot part” means one-quarter of one-quarter of a section.
16. “Government lot” means a tract, within a section, that is normally described by a lot number as represented and identified on township plat of the United States public land survey system.
17. “Improvements” means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainage ways, and other public works and appurtenances.
18. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.
19. “Lot, corner” means a lot situated at the intersection of two streets.

20. “Lot, double frontage” means any lot that is not a corner lot that abuts two streets.
21. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
22. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor and Assessor.
23. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
24. “Parcel” means a part of a tract of land.
25. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.
26. “Plat” means a map drawing, or chart on which a subdivider’s plan for the subdivision of land is presented, that he or she submits for approval and intends, in final form, to record.
27. “Plat Officer” means the individual assigned the duty to administer this chapter by the Council.
28. “Plat of survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
29. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.
30. “Resubdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
31. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
32. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

33. “Street, collector” means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
34. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
35. “Subdivision” means the division of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, may refer to the process of subdividing or to land subdivided.
36. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.
37. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.
38. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.
39. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

#### **166.08 IMPROVEMENTS.**

1. **Improvements Required.** The subdivider shall, at his or her expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.
2. **Inspection.** All improvements shall be inspected to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.
3. **Minimum Improvements.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.
  - A. **Streets.** The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place. All streets and alleys shall be of such width and be constructed in accordance with the plans and specifications of the City and at the street grades as established by the City. Under

some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.

B. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City. Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area. The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City, become the property of the City.

C. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in accordance with plans and specifications of the City and at sewer grades established by the City. Under some circumstances the City may require, as a condition for approval of the plat, installation of a storm sewer system that is larger than necessary to meet the needs of the platted area, but necessary to complete the City storm



sewer system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area. The sewers shall, upon inspection, approval, and acceptance by the City, become the property of the City. In the storm sewer design phase, consideration shall be given to alternatives and principles of storm water management or the provisions of a storm water management plan if such plan has been adopted by the City.

D. Water Main System. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area including fire protection, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City's existing water mains. Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area. The water mains shall, upon inspection, approval, and acceptance by the City, become the property of the City.

E. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks in accordance with the plans and specifications of the City. The owner and subdivider of the land being platted shall be responsible for the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the City Engineer or director of the electric utility, as appropriate.

4. Easements Required.

A. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than ten (10) feet in width shall be granted by the owner along rear, and where necessary, along side

lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines or across lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

B. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

5. Maintenance Bond Required. The owner and subdivider of the land being platted shall be required to provide to the City proper maintenance bonds satisfactory to the City so as to insure that for a period of one (1) year from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

6. Alternative Systems for Sewer or Water. Where connection to the City sewer or water system cannot reasonably be made the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health, safety and welfare, and shall meet all requirements of State, County, or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a waiver of assessment protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

**166.09 MINIMUM DESIGN STANDARDS.** The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Land Suitability. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography, or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section,

the Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify, or withdraw its determination regarding such unsuitability.

2. Lands Subject to Flooding. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Natural Resources Council. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the Zoning Ordinance for the zone in which the lot is located. Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

A. Included within individual lots in the subdivision, subject to the limitations of this section.

B. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.

C. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

3. Plat to Conform to Comprehensive Plan. The arrangement, character, extent, width, grade, and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to a Major Street Plan, a Sanitary Sewer System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the City.

4. Construction Standards for Improvements. In addition to the standards set forth in this chapter, the City Engineer shall from time to time prepare, and the Council shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements. Upon adoption by the Council by resolution, such technical standards for

public improvements shall have such force and effect as if they were fully set forth herein.

5. Street Standards. The following standards shall apply to all streets to be located within the subdivision:

A. Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Comprehensive Plan or the Street Plan, the plat shall provide for such street.

B. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.

C. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.

D. Street right-of-way widths and pavement widths shall be as specified in the Comprehensive Plan, the Streets Plan, or technical standards for public improvements.

E. Half-streets are prohibited; except where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

F. Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.

G. Street jogs with centerline offsets of less than 125 feet are prohibited, except where topography or other physical conditions make such jogs unavoidable.

H. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at more than ten percent (10%) off perpendicular.

I. At intersections of major streets, and otherwise as necessary, lots corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

J. Dead-end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.

K. Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted. Cul-de-sacs should not exceed 400 feet in length unless a greater length is unavoidable.

L. In general, alleys shall be permitted in residential areas and required in commercial areas with normal street frontage. Dead-end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of 100 feet.

M. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Council, be made a requirement of the plat.

N. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Council.

O. Private streets, not dedicated to the City, shall be avoided. The Council may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

6. Block and Lot Standards. The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions:

A. No residential block shall be longer than 1300 feet or shorter than 300 feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.

B. In blocks over 700 feet in length, the Council may require a public way or an easement at least ten (10) feet in width, at or near the center of the block, for use by pedestrians.

C. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the Zoning Ordinance.

- D. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.
- E. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zone in which the lot is located.
- F. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least 50 feet measured as a straight line between the two front lot corners.
- G. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.
- H. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Council, a variation to this provision will provide a better street and lot layout.
- I. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the Zoning Ordinance, oriented to either street.
- J. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.
- K. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drain field. No subdivision to be served by septic systems shall be approved by the Council until percolation tests have been performed and the results of said tests have been provided to, and reported on, by the City Engineer.
7. Parks and Open Space. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space; provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefiting from such open space.
8. Parks and School Sites Reserved. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

A. Proposed park sites shall be reserved for three (3) years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (½) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three (3) years, the subdivider may then amend the final plat.

B. Proposed school sites shall be reserved for three (3) years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (½) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three (3) years, the subdivider may then amend the final plat.

#### **166.10 PROCEDURES.**

1. Pre-Application Conference. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a pre-application conference with the Plats Officer. The conference should be attended by the Plats Officer and such other City or Utility representatives as is deemed desirable; and by the owner and owner's engineer and/or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.
2. Sketch Plan Required. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.
3. Presentation to Commission or Council. The subdivider may present the sketch plan to Commission and Council for review, prior to incurring significant costs preparing the preliminary or final plat.

4. Subdivision Classified. Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision.

A. Minor Subdivision. Any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.

B. Major Subdivision. Any subdivision that, in the opinion of the Council, does not for any reason meet the definition of a minor subdivision shall be classified as a major subdivision.

5. Plats Required. In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the City plats and other information as required by this chapter. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision may elect to omit the submission of a preliminary plat.

**166.11 REQUIREMENTS OF THE PRELIMINARY PLAT.** The subdivider shall prepare and file with the Clerk twenty (20) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.
2. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the County.
3. The name and address of the owner and the name, address, and profession of the person preparing the plan.
4. A key map showing the general location of the proposed subdivision in relation to the surrounding development.
5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within 200 feet of the subdivision boundary shall be attached.



6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
7. Existing and proposed zoning of the proposed subdivision and adjoining property.
8. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is 10% or greater.
9. The legal description of the area being platted.
10. The boundary of the area being plated, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
11. The layout, numbers, and approximate dimensions of proposed lots.
12. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
13. The proposed names for all streets in the area being platted.
14. Present and proposed utility system, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
15. Proposed easements, showing locations widths, purposes, and limitations.
16. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semipublic or community purposes, or shown for said purpose in the Comprehensive Plan or other adopted plans.
17. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
18. Any other pertinent information, as necessary.
19. The fee, as required by this chapter.

#### **166.12 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.**

1. The City Clerk, within five days of receipt of 20 copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat to the Plats Officer.

2. The Plats Officer, within five days of receipt of copies, shall provide copies of the plat to the City Engineer, and such other persons as necessary to review the plat, and shall schedule the plat for consideration by the Commission.

3. The Commission shall examine the plat and the report of the City Engineer, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Comprehensive Plan and duly adopted plans of the City. The Commission shall, within forty-five (45) days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the Council. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.

4. The Council shall examine the plat, the report of the City Engineer, the report of the Commission, and such other information as it deems necessary or desirable. Upon such examination, the Council shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Comprehensive Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the Council may approve, approve subject to conditions, or disapprove the plat. If the decision of the Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Council, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Council shall be taken within sixty (60) days of the filing of the plat with the City Clerk.

**166.13 DURATION OF APPROVAL OF PRELIMINARY PLAT.** The approval of a preliminary plat by the Council shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of said period of validity by the Council.

**166.14 AUTHORIZATION TO INSTALL IMPROVEMENTS.** The approval of the preliminary plat shall constitute authorization by the Council for the installation of improvements as required by this chapter, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications

for the construction of such improvement have been submitted to, and approved in writing by, the City Engineer.

**166.15 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS.**

Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

**166.16 PERFORMANCE BOND PERMITTED.** In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond or letter of credit from a bank, or establish an escrow account with the City, guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.

**166.17 REQUIREMENTS OF THE FINAL PLAT.** The subdivider shall, within one year from the date of approval of the preliminary plat unless such time period has been extended, prepare and file with the City Clerk, twenty (20) copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") or smaller than eight and one-half inches by eleven inches (8½" x 11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin. The final plat shall be clearly marked "Final Plat" and shall show the following:

1. The name of the subdivision.
2. Name and address of the owner and subdivider.
3. Scale, and a graphic bar scale, north arrow, and date on each sheet.
4. All monuments to be of record, as required by Chapter 355, Code of Iowa.

5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.
6. All distance, bearing, curve, and other survey data, as required by Chapter 355, Code of Iowa.
7. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
8. Street names and clear designation of public alleys.
9. Block and lot numbers.
10. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
12. All interior excepted parcels, clearly indicated and labeled, “not a part of this plat.”
13. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.
14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
15. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor’s direct personal supervision signed and dated by the surveyor and bearing the surveyor’s Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

**166.18 ATTACHMENTS TO THE FINAL PLAT.** The following shall be attached to and accompany any final plat:

1. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
2. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
4. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.
5. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
6. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, "as built" plans for all improvements shall have been provided to the City Engineer. In lieu, thereof, the City Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.

7. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.
8. The applicable fee, if any.

#### **166.19 PROCEDURES FOR THE REVIEW OF FINAL PLATS.**

1. The City Clerk, within five (5) days of receipt of 20 copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Plats Officer.
2. The Plats Officer, within five (5) days of receipt, shall provide copies of the plat to the City Engineer and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Council.
3. The Plats Officer and the City Engineer shall examine the plat as to its compliance with the ordinances and standards of the City, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.
4. If the plat is found to substantially conform to the preliminary plat as approved, the final plat shall be forwarded to the Council for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Commission for review, prior to review by the Council. The Commission shall then review the plat and shall forward a written recommendation thereon to the Council within forty-five (45) days of the filing of the plat with the Clerk. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefor shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.
5. Upon receipt of the plat and written reports thereon, the Council shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Council shall approve the plat, and shall cause its approval to be entered on the plat as required by law.
6. Action on the final plat by the Council shall be taken within sixty (60) days of the date of filing of the plat with the Clerk. If the action is

to disapprove the plat, the reasons therefor shall be set forth in the official records of the Council and such decision shall be provided to the subdivider.

**166.20 VARIANCES.** Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify, or waive the requirements so that substantial justice be done and the public interest secured, provided, however, that such variance modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Council may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

**166.21 CHANGES AND AMENDMENTS.** This chapter or any provision of this chapter may be changed or amended from time to time by the Council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published as provided by law.

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# **CODE OF ORDINANCES CITY OF WALKER, IOWA**

## **TABLE OF CONTENTS**

### **GENERAL CODE PROVISIONS**

<b>CHAPTER 1 - CODE OF ORDINANCES.....</b>	<b>1</b>
<b>CHAPTER 2 - CHARTER.....</b>	<b>9</b>
<b>CHAPTER 3 - MUNICIPAL INFRACTIONS .....</b>	<b>11</b>
<b>CHAPTER 5 - OPERATING PROCEDURES .....</b>	<b>21</b>
<b>CHAPTER 6 - CITY ELECTIONS .....</b>	<b>29</b>
<b>CHAPTER 7 - FISCAL MANAGEMENT .....</b>	<b>35</b>

### **ADMINISTRATION, BOARDS AND COMMISSIONS**

<b>CHAPTER 15 - MAYOR.....</b>	<b>71</b>
<b>CHAPTER 16 - MAYOR PRO TEM.....</b>	<b>75</b>
<b>CHAPTER 17 - COUNCIL.....</b>	<b>77</b>
<b>CHAPTER 18 - CITY CLERK .....</b>	<b>85</b>
<b>CHAPTER 19 - CITY TREASURER.....</b>	<b>89</b>
<b>CHAPTER 20 - CITY ATTORNEY .....</b>	<b>91</b>
<b>CHAPTER 21 - PLANNING AND ZONING COMMISSION.....</b>	<b>93</b>

### **POLICE, FIRE AND EMERGENCIES**

<b>CHAPTER 30 - CONTRACT LAW ENFORCEMENT .....</b>	<b>125</b>
<b>CHAPTER 35 - FIRE DEPARTMENT.....</b>	<b>135</b>
<b>CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS.....</b>	<b>139</b>
<b>CHAPTER 37 - DISASTER RECOVERY AND RECONSTRUCTION .....</b>	<b>143</b>

# TABLE OF CONTENTS

## PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	185
CHAPTER 41 - PUBLIC HEALTH AND SAFETY .....	189
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY .....	193
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	225
CHAPTER 46 - MINORS.....	227
CHAPTER 47 - COMMUNITY ROOM AND PARK REGULATIONS .....	233

## NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	245
CHAPTER 51 - JUNK AND JUNK VEHICLES .....	249
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL .....	265

## TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE .....	291
CHAPTER 61 - TRAFFIC CONTROL DEVICES.....	295
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	297
CHAPTER 63 - SPEED REGULATIONS .....	311
CHAPTER 64 - TURNING REGULATIONS .....	313
CHAPTER 65 - STOP OR YIELD REQUIRED .....	315
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS .....	327
CHAPTER 67 - PEDESTRIANS .....	329
CHAPTER 68 - ONE-WAY TRAFFIC.....	331
CHAPTER 69 - PARKING REGULATIONS .....	333
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES .....	355
CHAPTER 75 - ALL-TERRAIN VEHICLES, OFF-ROAD UTILITY VEHICLES, AND SNOWMOBILES.....	365
CHAPTER 76 - BICYCLE REGULATIONS.....	369
CHAPTER 80 - ABANDONED VEHICLES .....	381

# TABLE OF CONTENTS

## WATER

CHAPTER 90 - WATER SERVICE SYSTEM .....	395
CHAPTER 91 - WATER METERS.....	401
CHAPTER 92 - WATER RATES .....	403
CHAPTER 93 - WATER LINE EXTENSIONS .....	409
CHAPTER 94 - PUBLIC WATER SUPPLY SOURCE WATER PROTECTION REGULATIONS .....	413

## SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	421
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	427
CHAPTER 97 - USE OF PUBLIC SEWERS.....	433
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS .....	439
CHAPTER 99 - SEWER SERVICE CHARGES.....	441
CHAPTER 100 - SEWER EXTENSIONS.....	443

## GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL.....	461
CHAPTER 106 - COLLECTION OF SOLID WASTE .....	467

## FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE .....	485
CHAPTER 111 - ELECTRIC FRANCHISE .....	491
CHAPTER 112 - TELEPHONE FRANCHISE .....	501
CHAPTER 113 - CABLE TELEVISION FRANCHISE AND REGULATIONS.....	503

## REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS.....	575
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	579
CHAPTER 122 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS .....	585
CHAPTER 123 - HOUSE MOVERS .....	595

# TABLE OF CONTENTS

## **STREETS AND SIDEWALKS**

CHAPTER 135 - STREET USE AND MAINTENANCE.....	625
CHAPTER 136 - SIDEWALK REGULATIONS .....	629
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....	635
CHAPTER 138 - STREET GRADES .....	637
CHAPTER 139 - NAMING OF STREETS.....	639
CHAPTER 140 - CONTROLLED ACCESS FACILITIES .....	641
CHAPTER 141 - MAILBOXES AND NEWSPAPER RECEPTACLES .....	651

## **BUILDING AND PROPERTY REGULATIONS**

CHAPTER 145 - DANGEROUS BUILDINGS.....	671
CHAPTER 146 - MANUFACTURED AND MOBILE HOMES .....	675
CHAPTER 147 - FIRE ZONE .....	715
CHAPTER 150 - TREES .....	731
CHAPTER 160 - FLOODPLAIN MANAGEMENT.....	751
CHAPTER 161 - PROPERTY MAINTENANCE REGULATIONS.....	785

## **ZONING AND SUBDIVISION**

CHAPTER 165 - ZONING REGULATIONS.....	805
CHAPTER 166 - SUBDIVISION REGULATIONS.....	875

## **INDEX**

### **APPENDIX:**

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

### **SUGGESTED FORMS:**

DANGEROUS BUILDINGS - FIRST NOTICE.....	9
DANGEROUS BUILDINGS - NOTICE OF HEARING.....	10
DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....	11
NOTICE TO ABATE NUISANCE .....	13
NOTICE OF REQUIRED SEWER CONNECTION.....	14
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION.....	15
RESOLUTION AND ORDER .....	16