

**CODE OF ORDINANCES**

**OF THE**

**CITY OF**

**LOW MOOR, IOWA**

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# **CODE OF ORDINANCES**

## **CITY OF LOW MOOR, IOWA**

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# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title  
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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 Low Moor, 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.     öAlleyö means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2.     öCityö means the City of Low Moor, Iowa.
3.     öClerkö means the city clerk of Low Moor, Iowa.
4.     öCodeö 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.     öCode of Ordinancesö means the Code of Ordinances of the City of Low Moor, Iowa.
6.     öCouncilö means the city council of Low Moor, Iowa.
7.     öCountyö means Clinton County, Iowa.
8.     öMayö confers a power.
9.     öMeasureö means an ordinance, amendment, resolution or motion.
10.    öMustö states a requirement.
11.    öOccupantö or ötenant,ö 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.    öOrdinancesö means the ordinances of the City of Low Moor, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13.    öPersonö means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15.     “Shall” imposes a duty.

16.     “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17.     “State” means the State of Iowa.

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

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

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

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

*(Code of Iowa, Sec. 364.1)*

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

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



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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

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

**1.13 GENERAL STANDARDS FOR ACTION.** Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the

power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety, and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

**1.14 STANDARD PENALTY.** 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 \$65.00 but not to exceed \$625.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.<sup>A</sup>

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

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

## CHAPTER 2

# CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties of City Officers

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 Low Moor, Iowa.<sup>Ä</sup>

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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<sup>Ä</sup> **EDITOR'S NOTE:** Ordinance No. 126 adopting a charter for the City was passed and approved by the Council in 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 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 5

# OPERATING PROCEDURES

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

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

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no later than noon of the first day that is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

*(Code of Iowa, Sec. 63.1)*

2. Prescribed Oath. The prescribed oath is: ðI, (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 Low Moor as now or hereafter required by law.ö

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

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

5. Newspaper. The designation of an official newspaper.

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

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

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

7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$2,500.00 in a fiscal year.

*(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 30 days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within 30 days after the date the request is filed, unless the person removed requests a later date.

*(Code of Iowa, Sec. 372.15)*

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

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

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

## CHAPTER 6

### CITY ELECTIONS

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

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

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

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

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

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

*(Code of Iowa, Sec. 45.4)*

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

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

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## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

*(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 months, and

- B. The amount necessary to make all required transfers to restricted accounts for the succeeding three 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 it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption.
5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than 10 nor



more than 20 days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

6. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations and have them available for distribution at the offices of the Mayor and 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. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk and Treasurer, 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)*

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## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

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

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, 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 that have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.

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

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

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

1. Mayor Pro Tem
2. City Tree Board
3. Zoning Board of Adjustment

**15.04 COMPENSATION.** The salary of the Mayor is \$2,400.00 per year, payable in 12 equal installments.

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

**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*)

## CHAPTER 16

### MAYOR PRO TEM

**16.01 Vice President of Council**  
**16.02 Powers and Duties**

**16.03 Voting Rights**  
**16.04 Compensation**

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

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

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

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

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

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

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

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

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## CHAPTER 17

### CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**17.04 COUNCIL MEETINGS.** Procedures for giving notice of meetings of the Council and other provisions regarding the conduct of Council meetings are contained in Section 5.06 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])*

**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 Treasurer
3. City Attorney
4. Planning and Zoning Commission
5. Building Permit Inspector

**17.06 COMPENSATION.** The salary of each Council member is \$35.00 for each meeting of the Council attended, including any special meetings attended.  
*(Code of Iowa, Sec. 372.13[8])*

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## CHAPTER 18

### CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** At its first meeting in July of every even year, the Council shall appoint by majority vote a City Clerk to serve for a term of two years. The Clerk shall receive such compensation as established by resolution of the Council.  
*(Code of Iowa, Sec. 372.13[3])*

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

**18.03 PUBLICATION OF MINUTES.** Within 15 days following a regular or special meeting, the Clerk shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.  
*(Code of Iowa, Sec. 372.13[6])*

**18.04 RECORDING MEASURES.** The Clerk shall promptly record each measure considered by the Council and record a statement with the measure, where applicable, indicating whether the Mayor signed, vetoed or took no action on the measure, and whether the measure was repassed after the Mayor's veto.  
*(Code of Iowa, Sec. 380.7[1 & 2])*

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

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

*(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:

Low Moor Post Office  
Convenience Store on 3<sup>rd</sup> Street  
Low Moor City Hall

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than 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 CERTIFICATION.** The Clerk shall certify all measures establishing any zoning district, building lines, or fire limits and a plat showing the district, lines, or limits to the recorder of the County containing the affected parts of the City.

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 19

### CITY TREASURER

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

**19.03 Duties of Treasurer**

**19.01 APPOINTMENT.** The Mayor shall appoint, subject to Council approval, a City Treasurer at the first meeting in January of every odd year to serve for a term of two years.

**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.

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## CHAPTER 20

### CITY ATTORNEY

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

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

**20.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council and shall establish by resolution the City Attorney's compensation.

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

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

**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.

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

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

**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.

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

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

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## 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 seven 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 on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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## **CHAPTER 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)*

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## **CHAPTER 35**

### **FIRE DEPARTMENT**

**35.01 CONTRACT.** The City has entered into an agreement with the Low Moor Fire Department for fire protection and prevention within the City.

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## CHAPTER 45

### PUBLIC OFFENSES

45.01 Assault	45.14 Abandoned or Unattended Refrigerators
45.02 Harassment	45.15 Antenna and Radio Wires
45.03 Disorderly Conduct	45.16 Barbed Wire and Electric Fences
45.04 Unlawful Assembly	45.17 Discharging Weapons
45.05 Failure to Disperse	45.18 Throwing and Shooting
45.06 Urinating and Defecating	45.19 Criminal Mischief
45.07 Distributing Dangerous Substances	45.20 Defacing Proclamations or Notices
45.08 False Reports to or Communications with Public Safety Entities	45.21 Unauthorized Entry
45.09 Providing False Identification Information	45.22 Trespassing
45.10 Refusing to Assist Officer	45.23 Fraud
45.11 Harassment of Public Officers and Employees	45.24 Theft
45.12 Interference with Official Acts	45.25 Fireworks
45.13 Removal of an Officer's Communication or Control Device	45.26 Amusement Devices
	45.27 Drug Paraphernalia
	45.28 Other Public Property Offenses

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

**45.02 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 such 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.

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

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

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

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

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

3. Abusive Language. Direct abusive epithets or make any threatening gesture that 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 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

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

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

*(Code of Iowa, Sec. 723.5)*

**45.04 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. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

*(Code of Iowa, Sec. 723.2)*

**45.05 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)*

**45.06 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 public or private land.

**45.07 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)*

**45.08 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.

**45.09 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)*

**45.10 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)*

**45.11 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)*

**45.12 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider or fire fighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 302.1303[4] of the *Code of Iowa* in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include

verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 708.12)*

**45.14 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)*

**45.15 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])*

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

**45.17 DISCHARGING WEAPONS.**

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

**45.18 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])*

**45.19 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)*

**45.20 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)*

**45.21 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.

**45.22 TRESPASSING.**

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

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Specific Exceptions. "Trespass" does not mean either of the following:  
(*Code of Iowa, Sec. 716.7[2b]*)

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

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

**45.23 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*)

**45.24 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*)

**45.25 FIREWORKS.**

(*Code of Iowa, Sec. 727.2*)

1. Definition. For purposes of this section:

A. "Consumer fireworks" means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association ("APA") Standard 87-1:

- (1) First-class consumer fireworks:

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

(2) Second-class consumer fireworks:

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

B. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.

C. "Novelties" includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such



permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

3. Consumer Fireworks.

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

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

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

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

4. Novelties. This section does not apply to novelties.

**45.26 AMUSEMENT DEVICES.** The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

*(Code of Iowa, Sec. 99B.57)*

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person

under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

#### **45.27 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.

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

1. Chapter 105 "Solid Waste Control and Recycling."
  - A. Section 105.07 "Littering Prohibited"
2. Chapter 135 "Street Use and Maintenance."
  - A. Section 135.01 "Removal of Warning Devices"
  - B. Section 135.02 "Obstructing or Defacing"
  - C. Section 135.03 "Placing Debris On"
  - D. Section 135.04 "Playing In"
  - E. Section 135.05 "Traveling on Barricaded Street or Alley"
  - F. Section 135.08 "Burning Prohibited"
  - G. Section 135.12 "Dumping of Snow"
3. Chapter 136 "Sidewalk Regulations."
  - A. Section 136.11 "Interference with Sidewalk Improvements"
  - B. Section 136.15 "Fires or Fuel on Sidewalks"

- C. Section 136.16 ó Defacing
- D. Section 136.17 ó Debris on Sidewalks
- E. Section 136.18 ó Merchandise Display
- F. Section 136.19 ó Sales Stands.

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## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
  - A. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury, or loss of life.
  - B. "Knowingly" means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
  - C. "Minor" means any unemancipated person under the age of 18 years.
  - D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
  - E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

- F.     “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2.     Curfew Established.
- A.     It is unlawful for any minor age 15 and under 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 10:00 p.m. and 5:00 a.m. of the following day.
- B.     It is unlawful for any minor under the age of 18 and over the age of 15 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 00 a.m. of the following day.
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 nonsecured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

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

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

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

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

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 18 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 18 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* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance  
50.02 Nuisances Enumerated  
50.03 Nuisances Prohibited

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

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec 657.2)*

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

10. Dutch Elm Disease. Trees infected with Dutch elm disease.
11. Airport Air Space. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

**50.03 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)*

**50.04 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 50.05 of this chapter or the municipal infraction procedure referred to in Section 50.06.

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

**50.05 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:<sup>Ä</sup>
  - 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.

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

2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

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

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of 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 \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

*(Code of Iowa, Sec. 364.13)*

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

**50.06 MUNICIPAL INFRACTION ABATEMENT PROCEDURE.** In lieu of the abatement procedures set forth in Section 50.05, 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.

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## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

### 51.05 Notice to Abate

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

1.       ōJunkö 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.       ōJunk vehicleö means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.09 Vicious Dogs
55.02 Animal Neglect	55.10 Rabies Vaccination
55.03 Livestock Neglect	55.11 Owner's Duty
55.04 Abandonment of Cats and Dogs	55.12 Confinement
55.05 Livestock	55.13 Summons Issued
55.06 At Large Prohibited	55.14 Pet Awards Prohibited
55.07 Damage or Interference	55.15 Animal Waste
55.08 Annoyance or Disturbance	

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

1.       ōAdvertiseö means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2.       ōAnimalö means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
3.       ōAt largeö means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4.       ōBusinessö 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.
5.       ōFairö 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.
6.       ōGameö means a ögame of chanceö or ögame of skillö as defined in Section 99B.1 of the *Code of Iowa*.
7.       ōLivestockö 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)*
8.       ōOwnerö means any person owning, keeping, sheltering, or harboring an animal.

9.       ōPetō 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.

**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 that 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 that causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

*(Code of Iowa, Sec. 717.2)*

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

**55.10 RABIES VACCINATION.** Every owner of a dog 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, that 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)*



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

*(Code of Iowa, Sec. 351.38)*

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

*(Code of Iowa, Sec. 351.39)*

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

**55.14 PET AWARDS PROHIBITED.**

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

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

**55.15 ANIMAL WASTE.** It is unlawful for any person who owns, houses, leads, walks, or otherwise maintains control of any animal or pet that defecates anywhere within the City limits to fail to immediately remove the feces produced by said animal or pet to a garbage or waste receptacle after first placing said feces in a plastic or other impermeable bag and sealing said bag by tying it securely or using a twist tie, tape, or similar device to prevent the odors from escaping from said bag into the atmosphere. All structures, yards, kennels, or pens wherein any dog, cat, pet, or other animal is contained must be kept clean and free from odors

caused by animal waste and/or feces. Any person who is found to be in violation of the provisions of this section shall be subject to a fine not to exceed \$50.00 for each violation. Said fine is due within 30 days of issuance or if a hearing is requested, within 30 days of a decision sustaining the violation.

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## CHAPTER 60

### ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

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

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

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. "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 200 feet in either direction from a schoolhouse.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.

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

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

**60.03 ADMINISTRATION AND ENFORCEMENT.** Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the officers of the County Municipal Police, Clinton County Sheriff’s Department, or any other law enforcement officers.

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

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

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

2.     Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or

general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

3. Parade Not a Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.

4. Control by Peace Officers and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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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 Engine Brakes and Compression 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. Display of Registration and License to Drive: 321.17, 321.32, 321.37, 321.38, 321.57, 321.67, 321.78, 321.79, 321.91, 321.98, 321.99, 321.104, 321.115, 321.174, 321.174A, 321.180, 321.180B, 321.193, 321.194, 321.208A, 321.216, 321.216B, 321.216C and 321.218 through 321.224.
2. All Terrain Vehicles, Golf Carts, and Bicycles to Obey Traffic Regulations, Speed Detection Jamming Devices, Road Workers: 321.232 through 321.234A, 235A and 321.247.
3. Traffic Signs, Signals, and Markings: 321.259 and 321.260.
4. Accidents and Accident Reporting: 321.262 through 321.266.
5. Operation of Motorcycles and Motorized Bicycles: 321.275.
6. Drag Racing; Speed; Open Containers; Control of Vehicle: 321.276, 321.277, 321.277A, 321.278, 321.281, 321.284, 321.284A, 321.288, 321.295, 321.333, 321.382 and 321.383.
7. Driving on Right, Meeting, Overtaking, Following, or Towing: 321.297 through 321.299 and 321.302 through 321.310.
8. Turning and Starting, Signals on Turning and Stopping: 321.312 through 321.318.
9. Right-of-Way: 321.319 through 321.324A.
10. Pedestrian Rights and Duties and Safety Zones: 321.329, 321.330, 321.332, 321.333, and 321.340.
11. Railroad Crossings: 321.341 through 321.344 and 321.344B.
12. Stopping, Standing, Parking: 321.354 and 321.359.
13. Unattended Vehicle, Obstructing Driver's View, Crossing Median, Following Fire Apparatus, or Crossing Fire Hose, and Putting Glass, Etc., on Streets: 321.362 through 321.365 and 321.367 through 321.371.
14. School Buses: 321.372.
15. Lighting Equipment Required and Time of Use: 321.384 through 321.390, 321.392 through 321.395, 321.398, 321.402 through 321.405, 321.408, 321.409,

321.415, 321.417 through 321.423. In accordance with authorization granted by Section 321.395, *Code of Iowa*, motor vehicles parked upon any street where permitted by this chapter need not display required lights where there is sufficient light emitted from City street lights to reveal any person or object within a distance of five hundred (500) feet upon such street.

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

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

18. Unsafe Vehicles: 321.381 and 321.381A.

**62.02 PLAY STREETS DESIGNATED.** The Council has 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 ENGINE BRAKES AND COMPRESSION BRAKES.**

1. It is unlawful for the driver of any vehicle to use or operate (or for any person to cause to be used or operated) within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, which results in excessive, loud, unusual, or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible

at a distance of 300 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

3. The scheduled fine for a violation of this section is \$50.00.

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## CHAPTER 63

### SPEED REGULATIONS

#### 63.01 General

#### 63.02 State Code Speed Limits

#### 63.03 Parks, Cemeteries and Parking Lots

#### 63.04 Special Speed Zones

#### 63.05 Minimum Speed

#### 63.06 Controlled Access Facilities

**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 6 20 miles per hour.
2. Residence or School District 6 25 miles per hour.
3. Suburban District 6 45 miles per hour.

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

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

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

*(Code of Iowa, Sec. 321.290)*

6 NONE 6

**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)*

**63.06 CONTROLLED ACCESS FACILITIES.** Speed limits on controlled access facilities are as specified in Chapter 139 of this Code of Ordinances.

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## CHAPTER 64

# TURNING REGULATIONS

**64.01** Turning at Intersections  
**64.02** U-Turns

**64.03** Left Turn for Parking

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

65.05 Stop Before Crossing Sidewalk  
65.06 Stop When Traffic Is Obstructed  
65.07 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. Second Avenue. Vehicles traveling east on Second Avenue shall stop at Third Street.
2. Fourth Street. Vehicles traveling south on Fourth Street shall stop at Third Avenue.
3. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Second Avenue.
4. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Third Avenue.

**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 Third Street and Third Avenue.
2. Intersection of Third Avenue and Fourth Street.
3. Intersection of Second Avenue and Fourth Street.

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

*(Code of Iowa, Sec. 321.345)*

ó NONE ó

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

*(Code of Iowa, Sec. 321.249)*

1. Third Avenue at City Park.

**65.05 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)*

**65.06 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.

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

*(Code of Iowa, Sec. 321.327)*

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## CHAPTER 66

### LOAD AND WEIGHT RESTRICTIONS

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

66.04 Load Limits on Bridges  
66.05 Truck Routes

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

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

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

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

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

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

6 NONE 6

**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 Council 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 ROUTES.** Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing five 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 those streets within the City designated as truck routes and none other.

*(Code of Iowa, Sec. 321.473)*

2. Deliveries Off Truck Route. Any motor vehicle weighing five 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 to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload, and return by the most direct route to its point of departure from said designated route.

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

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## CHAPTER 67

### PEDESTRIANS

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

**67.03 Pedestrian Crossing**

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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## CHAPTER 68

### ONE-WAY TRAFFIC

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

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

6 NONE 6

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## CHAPTER 69

# PARKING REGULATIONS

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

69.06 Parking Prohibited  
69.07 Persons With Disabilities Parking  
69.08 All Night Parking Prohibited  
69.09 Truck Parking Limited  
69.10 Snow Removal

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. On the north side of the Church.

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

*(Code of Iowa, Sec. 321.361)*

**69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL.** No person shall park a vehicle upon public property for more than 48 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

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

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

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

1. Crosswalk. On a crosswalk.  
*(Code of Iowa, Sec. 321.358[5])*
2. Center Parkway. On the center parkway or dividing area of any divided street.  
*(Code of Iowa, Sec. 321.236[1])*
3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.  
*(Code of Iowa, Sec. 321.236[1])*
4. Sidewalks. On or across a sidewalk.  
*(Code of Iowa, Sec. 321.358[1])*
5. Driveway. In front of a public or private driveway.  
*(Code of Iowa, Sec. 321.358[2])*
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358[3])*
7. Fire Hydrant. Within five feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358[4])*
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.  
*(Code of Iowa, Sec. 321.358[6])*
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.  
*(Code of Iowa, Sec. 321.358[8])*
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.  
*(Code of Iowa, Sec. 321.358[9])*
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.  
*(Code of Iowa, Sec. 321.358[10])*
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.  
*(Code of Iowa, Sec. 321.358[11])*
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.  
*(Code of Iowa, Sec. 321.358[13])*

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
- B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

**69.08 ALL NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all-night parking and giving notice thereof, for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day. However, Business District residents are allowed one space for overnight parking.

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

**69.09 TRUCK PARKING LIMITED.** No person shall park or leave unattended a motor truck, semi-trailer, or other motor vehicle with trailer attached, excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner that will not interfere with other traffic.

1. Main Street on both sides from First Avenue to Fourth Avenue.
2. Third Avenue on both sides from Fourth Street to the east boundary of the Community Center on Third Avenue.

**69.10 SNOW REMOVAL.** No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow removal operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

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

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## CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. 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])*

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

2. 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])*

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

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

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## CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

75.08 Violation and Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Streets. Snowmobiles will be allowed to operate within the City roadways and public streets and shall be subject to the regulations contained in this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

7. Unattended Snowmobiles. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

8. Private Property. Snowmobiles shall not be operated on private property of another without the express permission to do so by the owner or occupant of said property.

9. Operation of Snowmobiles. It is unlawful for any person to operate a snowmobile under the following circumstances:

A. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

B. In a careless, reckless, or negligent manner so as to endanger the safety of any person or property of any other person.

C. Without having such snowmobile registered as provided for by Iowa statutes and the City except that this provision does not apply to the operation of a snowmobile on private property of the owner by the owner or a member of his or her immediate family.

D. Within the right-of-way of any public street or alley unless the operator has a valid driver's license or an instruction permit and is accompanied by a qualified licensed driver.

The Council may also, by resolution, prohibit the operation of snowmobiles within the right-of-way of public roads, streets, or alleys or other City property when, in the Council's opinion, the public safety and welfare so require.

10. Equipment Required. All snowmobiles shall be equipped as required by Sections 321G.11 and 321G.12 of the *Code of Iowa*, including but not limited to the following equipment:

A. Mufflers that are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cutout, by-pass or similar device on said vehicle.

B. Adequate brakes in good condition and at least one headlight and one taillight.

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

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may

authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

2. Permits.

A. Required. No person shall operate an ATV on any public street or alley for any purpose unless the operator possesses a City permit to operate the same, issued by the City Clerk. The City Clerk shall not issue a permit until the owner/operator has provided the following:

(1) Evidence that the ATV is registered as required by Iowa law, and that such registration is current. The owner/operator shall maintain such registration.

(2) Evidence that the owner possesses a valid driver's license.

(3) Proof of current financial responsibility in accordance with Section 321.20B of the *Code of Iowa*. The owner/operator shall maintain such financial responsibility.

(4) Proof owner/operator has liability covering operation of ATVs on City streets.

B. The operator of an ATV shall display the City of Low Moor permit sticker prominently on the ATV which is clearly visible.

C. The annual fee for such permits shall be set by resolution.

D. The permits expire annually on December 31 regardless of the date of issue.

E. Permits can be revoked by the City as a result of any violation of this Code of Ordinances or the *Code of Iowa*. The revocation, including a description of the violation, shall be provided in writing to the owner of the ATV. The revocation may be appealed to the City Council within 10 days of the written notice of revocation of the permit. The owner shall request the appeal in writing and submit the appeal to the City Clerk.

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

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

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

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

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

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

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

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

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

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

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

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

E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city to a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city.

8. Private Property. ATVs shall not be operated on private property of another without the express permission to do so by the owner or occupant of said property.

9. Operation of ATVs. It is unlawful for any person to operate a snowmobile under the following circumstances:

A. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

B. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

C. Without having such ATV registered as provided for by Iowa statutes and the City except that this provision does not apply to the operation of an ATV on private property of the owner by the owner or a member of his or her immediate family.

D. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.

The Council may also, by resolution, prohibit the operation of ATVs within the right-of-way of public roads, streets, or alleys or other City property when, in the Council's opinion, the public safety and welfare so require.

10. Hours of Operation. No person shall operate an ATV in the City from 10:00 p.m. to 7:00 a.m. except for the purpose of loading and unloading an ATV from another vehicle or trailer.

11. Equipment Required. ATVs shall be equipped as required by Section 321I.12 and 321I.13 of the *Code of Iowa*, including but not limited to the following:

A. Mufflers that are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cutout by-pass or similar device on said vehicle.

B. Adequate brakes in good condition and at least one headlight and one taillight.

12. Unattended ATVs. It is unlawful for the owner or operator to leave or allow an ATV to be or remain unattended on public property while the motor is running or the key left in the ignition.

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

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

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

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

**75.08 VIOLATION AND PENALTIES.**

1. Any person guilty of violating the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a fine of \$100.00, and in the case of violation of ATV regulations, revocation of the City permit for a period of six months.

2. Any person guilty of violating this chapter two times shall be subject to a fine of \$300.00 and permanent revocation of permit to operate an ATV.

3. Persons violating this chapter may also be prosecuted and subject to the penalties set out in Section 321I.36 of the *Code of Iowa*.

## 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 Speed

76.06 Emerging from Alley or Driveway

76.07 Carrying Articles

76.08 Riding on Sidewalks

76.09 Towing

76.10 Improper Riding

76.11 Parking

76.12 Equipment Requirements

76.13 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 that by their nature can have no application. Whenever such person dismounts from a bicycle, the person shall be subject to all regulations applicable to pedestrians.

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.397)*

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

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

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

## CHAPTER 77

### GOLF CARTS

77.01 Purpose  
77.02 Operation of Golf Carts Permitted  
77.03 Prohibited Locations  
77.04 Equipment  
77.05 Hours

77.06 Speed  
77.07 Traffic Code  
77.08 Permits  
77.09 Accident Reports  
77.10 Violation and Penalty

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

**77.02 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon the streets of the City by persons who have a valid operator's license, except as prohibited in Section 77.03 of this chapter. While a golf cart is operated on a City street, the number of passengers permitted on the golf cart shall not exceed the number of seats intended for passengers. While on City streets, operators must have on their person or in the golf cart proof of the required insurance.

**77.03 PROHIBITED LOCATIONS.**

1. Sidewalks. Golf carts shall not be operated upon sidewalks.
2. City Parks and Other Land Owned by the City. Golf carts shall not be operated in City parks or upon other City-owned land unless for a special event authorized by the City Council and the operator possesses a valid City of Low Moor permit.
3. Special Exemptions. The City Council may approve, during special events that a golf cart be used without a City permit. These requests must be made to the City Clerk in writing at least 5 days prior to the next Council meeting in order to be placed on the agenda for that meeting.

**77.04 EQUIPMENT.** Golf carts operated upon City streets shall be equipped with at least the following:

1. A slow moving vehicle sign.
2. Golf carts operated on City streets shall be equipped with one headlight, one tail light and adequate brakes to stop and hold the cars in a stopped position.

**77.05 HOURS.** Golf carts may be operated on City streets only between 7:00 a.m. and 10:00 p.m.

**77.06 SPEED.** No golf cart shall be operated at a speed in excess of the lesser of 25 miles per hour or other posted speed limit. Golf carts shall not be modified to increase speed.

**77.07 TRAFFIC CODE.** Any person operating a golf cart, including those for which a City permit has been issued, shall strictly adhere to all traffic signs and signals and all other

traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic. No person shall leave a golf cart unattended on public property while the motor is running or the keys are in the ignition switch.

**77.08 PERMITS.** No person shall operate a golf cart on any public street or alley for any purpose unless the golf cart owner/operator possesses a City permit to operate a golf cart on City streets, issued by the City Clerk. Golf cart owners may apply for a permit from the City Clerk on forms provided by the City. The Clerk shall not issue a permit until the owner/operator has provided the following:

1. Evidence that the owner/operator possesses a valid driver's license.
2. Proof that the owner/operator has liability insurance covering operation of golf carts on City streets.
3. The operator of a golf cart shall display the City permit sticker prominently and clearly visible from the rear.

The annual fee for such permits shall be set by resolution. The permits expire annually on December 31 regardless of the date of issue. Permits can be revoked by the City as a result of any violation of this Code of Ordinances or the *Code of Iowa*. The revocation, including a description of the violation, shall be provided in writing to the owner of the golf cart. The revocation may be appealed to the City Council within 10 days of the written notice of revocation of the permit. The owner shall request the appeal in writing and submit the appeal to the City Clerk.

**77.09 ACCIDENT REPORTS.** Either the operator or someone acting for the operator shall immediately notify a law enforcement officer whenever a golf cart is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,000 or more, and shall file an accident report within 48 hours, in accordance with State law.

**77.10 VIOLATION AND PENALTY.** Any person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a fine of \$100.00 and revocation of the City permit for a period of six months. Any person guilty of violating this chapter two times shall be subject to a fine of \$300.00 and permanent revocation of the permit.

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## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Connection Charge	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	90.20 Cross Connections

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

1.       ōCombined service accountö means a customer service account for the provision of two or more utility services.
2.       ōCustomerö 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.       ōSuperintendentö means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
4.       ōWater mainö means a water supply pipe provided for public or community use.
5.       ōWater service pipeö means the pipe from the water main to the building served.
6.       ōWater systemö or öWaterworksö means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

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

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

**90.03 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

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

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

**90.06 CONNECTION CHARGE.** There shall be a connection charge in the amount of \$25.00 paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

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

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

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

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

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

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

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

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

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

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

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

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

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

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

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

**90.18 SHUTTING OFF WATER SUPPLY.** The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be

turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

**90.20 CROSS CONNECTIONS.** Potable water supply piping, water discharge outlets, backflow prevention devices or similar equipment shall not be so located as to make possible their submergence in any contaminated or polluted liquid or substance.

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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 Meter Accuracy and 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 Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

**91.05 METER SETTING.** The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

**91.06 METER COSTS.** The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

**91.07 METER REPAIRS.** Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

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

**91.09 METER INSTALLATION FEE.** The property owner shall pay an installation fee equal to the actual costs for each new installation of a water meter to a three-fourths inch line. Such meter is to remain the property of the City.

**91.10 METER ACCURACY AND TEST.** All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent shall

make a test of the accuracy of any water meter at any time when requested in writing. If the meter is found to overrun to the extent of five percent or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than three months. If the meter is found to be accurate or slow, or less than five percent fast, the customer shall pay the reasonable cost of the test.

## CHAPTER 92

### WATER RATES

92.01 Service Charges  
92.02 Rates For Service  
92.03 Rates Outside the City  
92.04 Billing for Water Service  
92.05 Service Discontinued

92.06 Lien for Nonpayment  
92.07 Lien Exemption  
92.08 Lien Notice  
92.09 Customer Deposits  
92.10 Temporary Vacancy

**92.01 SERVICE CHARGES.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following quarterly rates within the City:

*(Code of Iowa, Sec. 384.84)*

Gallons Used Per Quarter	Rate
Up to 3,000 gallons	\$50.00
Each 1,000 gallons over 3,000	\$4.25 per 1,000 gallons

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

*(Code of Iowa, Sec. 364.4[2] & 384.84)*

**92.04 BILLING FOR WATER SERVICE.** Water service shall be billed as part of a combined service account, payable in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Meters Read. Water meters shall be read during the last month of each of the quarters consisting of the following months:

First Quarter ó January, February and March;

Second Quarter ó April, May and June

Third Quarter ó July, August and September

Fourth Quarter ó October, November and December.

2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of the month following each quarter.

3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth of the month following the end of each quarter.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of 10 percent of the amount due shall be added to each delinquent bill. A \$25.00 late fee will be charged after one month of delinquency.

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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Treasurer shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Fees. A fee of \$50.00 shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

**92.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that



the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

**92.08 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**92.09 CUSTOMER DEPOSITS.** There shall be required from every customer not the owner of the premises served a \$150.00 deposit intended to guarantee the payment of bills for

service. This fee shall be paid prior to occupancy or service will be discontinued. When the tenant moves from the rental property, the City shall return the deposit if the water service charges are paid in full.

*(Code of Iowa, Sec. 384.84)*

**92.10 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be no charge for shutting the water off at the curb valve, but there shall be a \$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.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose  
95.02 Definitions  
95.03 Superintendent  
95.04 Prohibited Acts  
95.05 Sewer Connection Required

95.06 Service Outside the City  
95.07 Right of Entry  
95.08 Use of Easements  
95.09 Special Penalties  
95.10 Compensation

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1.        "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2.        "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
3.        "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4.        "Combined sewer" means a sewer receiving both surface run-off and sewage.
5.        "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6.        "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7.        "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8.        "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9.        "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10.       "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11.     "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12.     "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13.     "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14.     "Sanitary sewer" means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

15.     "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16.     "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17.     "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18.     "Sewer" means a pipe or conduit for carrying sewage.

19.     "Sewer service charges" means any and all charges, rates, fees, or rentals 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 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

21.     "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22.     "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23.     "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24.     "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 SUPERINTENDENT.** The Superintendent shall exercise the following powers and duties:

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

1.     Operation and Maintenance. Operate and maintain the City sewage system.
2.     Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment that is a part of the sewer system.

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 90 days after date of official notice from the City to do so provided that said public sewer is located within 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.

*(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 Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**95.08 USE OF EASEMENTS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**95.09 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

**95.10 COMPENSATION.** The compensation of the Superintendent must be set by Resolution of the City Council.

## 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 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.** The person who makes the application shall pay a fee in the amount of \$25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of \$25.00 paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

**96.03 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

**96.04 EXCAVATIONS.** All trench work, excavation and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

**96.05 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
  - A. Recommended grade at one-fourth inch per foot.
  - B. Minimum grade of one-eighth inch per foot.
  - C. Minimum velocity of two feet per second with the sewer half full.
  - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
  - A. Clay sewer pipe ó A.S.T.M. C-700 (extra strength).
  - B. Extra heavy cast iron soil pipe ó A.S.T.M. A-74.
  - C. Ductile iron water pipe ó A.W.W.A. C-151.
  - D. P.V.C. ó SDR26 - A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall, 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 Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings.



Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

**96.06 INTERCEPTORS REQUIRED.** Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the 8Yö branch, if such branch is available at a suitable location. If no properly located 8Yö branch is available, a saddle 8Yö shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

**96.08 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**96.10 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

## CHAPTER 97

### USE OF PUBLIC SEWERS

97.01 Storm Water  
97.02 Surface Waters Exception  
97.03 Prohibited Discharges  
97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent  
97.06 Special Facilities  
97.07 Control Manholes  
97.08 Testing of Wastes

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

**97.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be 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 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 fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
  - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

**97.04 RESTRICTED DISCHARGES.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F.
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees and 150 degrees F.
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting öslugsö as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**97.07 CONTROL MANHOLES.** When required by the Superintendent the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

## CHAPTER 98

### ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited  
98.02 When Required  
98.03 Compliance with Regulations  
98.04 Permit Required  
98.05 Discharge Restrictions

98.06 Maintenance of System  
98.07 Systems Abandoned  
98.08 Disposal of Septage  
98.09 Minimum Lot Area

**98.01 WHEN PROHIBITED.** Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

**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 an 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[3ff])*

**98.08 DISPOSAL OF SEPTAGE.** No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

**98.09 MINIMUM LOT AREA.** No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 6,000 square feet.



## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Special Rates  
99.03 Private Water Systems  
99.04 Payment of Bills

99.05 Lien for Nonpayment  
99.06 Deposit  
99.07 Special Agreements Permitted

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

*(Code of Iowa, Sec. 384.84)*

1. Up to 5,000 gallons ó \$97.00.
2. Each 1,000 gallons over 5,000 gallons ó \$4.85 per 1,000 gallons.

**99.02 SPECIAL RATES.** Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

*(Code of Iowa, Sec. 384.84)*

**99.03 PRIVATE WATER SYSTEMS.** Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

*(Code of Iowa, Sec. 384.84)*

**99.04 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.05 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.06 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council,

and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

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## CHAPTER 105

### SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.09 Waste Storage Containers
105.04 Health and Fire Hazard	105.10 Prohibited Practices
105.05 Open Burning Restricted	105.11 Sanitary Disposal Project Designated
105.06 Separation of Yard Waste Required	

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1.       ōCollectorö means any person authorized to gather solid waste from public and private places.
2.       ōDiscardö means to place, cause to be placed, throw, deposit or drop.  
*(Code of Iowa, Sec. 455B.361[1])*
3.       ōDwelling unitö means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used, or are intended to be used, for living, sleeping, cooking, and eating.
4.       ōGarbageö 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)*
5.       ōLandscape wasteö 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])*
6.       ōLitterö means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.  
*(Code of Iowa, Sec. 455B.361[2])*
7.       ōOwnerö means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8.     "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

9.     "Residential premises" means a single-family dwelling and any multiple-family dwelling.

10.    "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11.    "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12.    "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13.    "Sanitary disposal project" means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14.    "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A.     Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B.     Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C.     Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D.     Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E.     Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

**105.03    SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a

nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(IAC, 567-23.2[3e])*

6. Back Yard Burning. The open burning of residential waste on the property where such waste is generated, at dwellings of four-family units or less.

*(IAC, 567-23.2[3f])*

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

8. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3h])*

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3j])*

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(IAC, 567-23.2[2])*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2)*

*(IAC, 567-102.13[2] and 400-27.14[2])*

**105.09 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:



1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be not more than 20 gallons in nominal capacity, and shall be leak-proof and waterproof. The total weight of any container and contents shall not exceed 60 pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

- (1) Be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container;
- (2) Have handles, bails or other suitable lifting devices or features;
- (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;
- (4) Be of lightweight and sturdy construction.

Galvanized metal containers, rubber or fiberglass containers, and plastic containers that do not become brittle in cold weather may be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as

such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Clinton County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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## CHAPTER 106

### COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection  
106.05 Bulky Rubbish

106.06 Right of Entry  
106.07 Contract Requirements  
106.08 Collection Fees  
106.09 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable, and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(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 that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 CONTRACT REQUIREMENTS.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

**106.08 COLLECTION FEES.** The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Fee for Collection. The fee for solid waste collection and disposal service, used or available, is \$39.00 per quarter.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.09 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

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## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Grant of Franchise  
110.02 Indemnification  
110.03 Excavations  
110.04 Location of Facilities  
110.05 Easement

110.06 Standards of Service  
110.07 Franchise Fee  
110.08 Term  
110.09 Amendments

**110.01 GRANT OF FRANCHISE.** There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of 25 years from and after the passage, adoption, approval and acceptance of the ordinance codified in this chapter,<sup>Å</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 the City and the residents thereof and to persons and corporations beyond the limits thereof; the franchise also includes 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 INDEMNIFICATION.** The mains and pipe of the Company must be so placed as not to unnecessarily interfere 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 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 laying down, operation and maintenance of said natural gas distribution system.

**110.03 EXCAVATIONS.** In making any excavations in any street, alley, avenue or public place, the Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

**110.04 LOCATION OF FACILITIES.** The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right-of-way which have been relocated at Company expense at the direction of the City during the previous 10 years, the reasonable cost of such relocation will

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<sup>Å</sup> **EDITOR'S NOTE:** Ordinance No. 109C adopting a natural gas franchise for the City, was passed and adopted by the Council on June 7, 2016.

be paid by the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private, or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

**110.05 EASEMENT.** Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has gas facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

**110.06 STANDARDS OF SERVICE.** 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, 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.

**110.07 FRANCHISE FEE.** There is hereby imposed a franchise fee of zero percent 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. 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. 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.

**110.08 TERM.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days after passage of the ordinance codified in this chapter.

**110.09 AMENDMENTS.** 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 supplemented, superseded, modified, or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact or maintain 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.

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## CHAPTER 111

### ELECTRIC FRANCHISE

111.01 Franchise Granted  
111.02 Placement of Facilities  
111.03 Excavations  
111.04 Location of Facilities  
111.05 Easement

111.06 Tree Trimming and Removal  
111.07 Service Standards  
111.08 Franchise Fee  
111.09 Term  
111.10 Amendments

**111.01 FRANCHISE GRANTED.** There is hereby granted unto Interstate Power Company, herein called the "Company," its successors and assigns, the right and nonexclusive franchise to acquire, construct, reconstruct, 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 distribution of electric current along, under, and upon the streets, 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 for the period of 25 years<sup>A</sup>, and also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

**111.02 PLACEMENT OF FACILITIES.** The poles, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City. The Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**111.03 EXCAVATIONS.** In making any excavations in any street, alley, or public place, the Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

**111.04 LOCATION OF FACILITIES.** The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right-of-way which have been relocated at Company expense at the direction of the City during the previous 10 years, the reasonable cost of such relocation will be paid by the City. If the City orders or requests the Company to relocate its existing

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<sup>A</sup> **EDITOR'S NOTE:** Ordinance No. 108B, adopting an electric franchise for the City, was passed and adopted on June 9, 2016.

facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private, or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

**111.05 EASEMENT.** Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

**111.06 TREE TRIMMING AND REMOVAL.** The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley, or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

**111.07 SERVICE STANDARDS.** During the term of the franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability. Service to be rendered by the Company under the 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.

**111.08 FRANCHISE FEE.** There is hereby imposed a franchise fee of zero percent 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. 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. 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.

**111.09 TERM.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days after passage of the ordinance codified in this chapter.

**111.10 AMENDMENTS.** 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.

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## CHAPTER 120

# BEER, LIQUOR, AND WINE CONTROL

120.01 General Prohibition  
120.02 Persons Under Legal Age  
120.03 Public Consumption or Intoxication

120.04 Open Containers in Motor Vehicles  
120.05 License or Permit Required  
120.06 Social Host

**120.01 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 terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.  
*(Code of Iowa, Sec. 123.2)*

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

1. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic 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])*

### **120.03 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)*

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

**120.05 LICENSE OR PERMIT REQUIRED.** It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport 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. 123.2 and 123.171)*

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

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

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## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
*(Code of Iowa, Sec. 453A.1)*

1.     “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2.     “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3.     “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored or kept for the purpose of sale or consumption by a retailer.
4.     “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5.     “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6.     “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7.     “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can

be used to produce vapor from a solution or other substance. "Vapor product" includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

### **121.02 PERMIT REQUIRED.**

1. **Retail Cigarette Permits.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. **Retail Tobacco Permits.** It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 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 to the Alcoholic Beverages Division of the Department of Commerce within 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, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

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## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose  
122.02 Definitions  
122.03 Permission Required  
122.04 Permission Requirements  
122.05 Transient Merchant Bond  
122.06 Permission Granted

122.07 Permission Not Transferable  
122.08 Time Restriction  
122.09 Revocation  
122.10 Effect of Revocation  
122.11 Exemptions  
122.12 Charitable and Nonprofit Organizations

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by approving and regulating peddlers, solicitors and transient merchants.

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

1.       ōPeddlerö 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.       ōSolicitorö 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.       ōTransient merchantö 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 PERMISSION REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining permission from the City as herein provided is in violation of this chapter.

**122.04 PERMISSION REQUIREMENTS.** Permission to conduct business in the City should be requested from the Clerk by informing the Clerk of the applicant's name, permanent and local address and business address, if any, 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 said business will be conducted in the City. An application fee of \$2.00 shall be paid at the time of making the request to cover the cost of investigating the facts stated therein.

**122.05 TRANSIENT MERCHANT BOND.** Before permission under this chapter is given to a transient merchant, an applicant shall provide to the Clerk evidence that such person has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.06 PERMISSION GRANTED.** If the Clerk finds the requested information to be complete, the facts stated to be correct and the application fee paid, permission to conduct business shall be granted immediately.

**122.07 PERMISSION NOT TRANSFERABLE.** Permission granted under the provisions of this chapter is not transferable in any situation and is to be applicable only to the person requesting the Clerk's approval.

**122.08 TIME RESTRICTION.** All peddlers and solicitors shall conduct business in the City for which approval has been given only between the hours of 8:00 a.m. and 6:00 p.m.

**122.09 REVOCATION.** After notice to the peddler, solicitor or transient merchant, the Clerk may revoke permission to do business under this chapter for the following reasons:

1. Fraudulent Statements. The said peddler, solicitor or transient merchant has made fraudulent statements in the request for permission or in the conduct of the business.
2. Violation of Law. Said peddler, solicitor or transient merchant has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The said peddler, solicitor or transient merchant has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.10 EFFECT OF REVOCATION.** Revocation of any approval shall bar the peddler, solicitor or transient merchant from being eligible to do business under this chapter for a period of one year from the date of revocation.

**122.11 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. City Residents.
4. Farmers. Farmers who offer for sale their own products.
5. Students. Students representing the Central and Camanche School Districts conducting projects sponsored by organizations recognized by the school.
6. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
7. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.12 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 122.03 and 122.04. 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.

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## CHAPTER 123

### JUNK DEALERS AND JUNKYARDS

#### 123.01 Definition

#### 123.02 License Required

#### 123.03 Issuance of License

#### 123.04 Location Approval Required

#### 123.05 Fence and Building Requirements

**123.01 DEFINITION.** For the purposes of this chapter, every person who conducts or carries on a junk shop or a junkyard, or who deals in junk, salvage or scrap of any description, shall be deemed a junk dealer within the meaning of this chapter.

**123.02 LICENSE REQUIRED.** No person shall engage in the business of junk dealer or operate a junk shop or junkyard within the corporate limits of the City without first having obtained a license and paid the annual license fee of \$50.00 per year.

**123.03 ISSUANCE OF LICENSE.** Upon payment of the license fee to the City, a license shall be issued to the person applying for a junk dealer's license, which license shall state the name and place of residence of the person licensed, the business transacted and the place where it is to be carried on, and dates of issuance and expiration.

**123.04 LOCATION APPROVAL REQUIRED.** No license shall be issued to any person who does not first obtain approval of the location of said business from the Council.

**123.05 FENCE AND BUILDING REQUIREMENTS.** No person shall conduct the business of junk dealer, junk shop or junkyard unless the place of business shall be completely surrounded by a tight board fence of at least six feet in height, or conducted in a building kept in a clean and sightly condition.

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## CHAPTER 124

# ADULT ENTERTAINMENT

124.01 Definitions	124.10 Term of Permit
124.02 License	124.11 Permit Renewal
124.03 Siting Criteria	124.12 Permit Identification Card
124.04 Display Of License	124.13 Permit Renewal Application
124.05 License Term	124.14 Unlawful Acts
124.06 License Renewal	124.15 Sign Required
124.07 Application For Adult Entertainment Business License; Contents, Renewal, Required Fee	124.16 Sale or Transfer
124.08 Prohibited Activities of Adult Entertainment Business	124.17 Change of Location or Name
124.09 Escort/Model Permit Required	124.18 Suspension or Revocation of a License or Permit
	124.19 Conducting as a Nuisance
	124.20 Violation

**124.01 DEFINITIONS.** For the purpose of this chapter, the following words, terms and phrases are defined:

1.        ðAdult entertainment businessesö includes the following uses, activities or establishments:

A.        ðAdult bookstoreö means an establishment that has a substantial or significant portion of its stock in, trade in, or a segment or section devoted to the sale or display of books, magazines or other periodicals, videos, tapes, holographs or holograms, sexually oriented paraphernalia, movies, games, materials, visual images or similar devices, alone or in combination with each other, all or any of which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein.

B.        ðAdult mini motion picture theaterö means an enclosed building with a capacity for fewer than 50 persons, used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.

C.        ðAdult motion picture theaterö means an enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.

D.        ðArtistsø body painting studioö means an establishment or business which provides the services of applying paint or other substances whether transparent or nontransparent to or on the human body while the sexual or genital body parts of the artist or model are not covered by opaque clothing.

E.        ðEscort service bureauö means any business, agency or self-employed or independent escort who, for consideration, furnishes or offers to furnish escorts.

F.        ðIntroductory serviceö means a service offered or performed by any person for consideration, the principal purpose of which is to aid persons to become socially acquainted or to otherwise assist persons to meet for social

purposes, or which service is generally known or should be known by the offering or performing party to be used by the recipients thereof for the purpose of obtaining information about other persons to be used for social purposes and which involves sessions or other activities where materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas are provided for observation by or communication to the persons paying such consideration or where models are used.

G.     “Live dancing or entertainment” means activities such as go-go dancing, strip-tease acts, and exotic dancing.

H.     “Other kindred or related uses, activities or establishments” means other uses wherein the employees, models, escorts or other contract workers are nude or seminude.

2.     “County Sheriff” means the County Sheriff of Clinton County, Iowa.

3.     “Escort” means any person who, for consideration paid by or for the person escorted:

A.     Accompanies other persons to, from or about social affairs, entertainment, places of public assembly or places of amusement located or situated within the City; or

B.     Accompanies other persons in or about any place of public or private resort or within any private quarters located or situated within the City; or

C.     Accompanies other persons in or about any business or commercial establishment or part of portion thereof, located or situated within the City; or

D.     Assists persons to become socially acquainted or otherwise to assist persons to meet for social purposes as an introductory service.

4.     “Model” means any person who, for consideration or gratuity, appears either nude or seminude, to be viewed, photographed, sketched, drawn, sculptured; to dance; to provide reading or counseling sessions; for body painting; to deliver a service or in connection with the sale of merchandise; or to present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

5.     “Nude” or “seminude” means a state of dress in which any specified anatomical area is displayed.

6.     “Specified anatomical areas” means any of the following:

A.     Less than completely opaquely covered pubic hair, pubes, perineum, anus or buttocks of a male or female; less than completely and opaquely covered female nipple, areola or breast below a point immediately above the top of the areola, except as is necessary in the feeding of an infant; and

B.     Male genitals in a discernibly turgid state, even if completely opaquely covered.

7.     “Specified sexual activities” means any of the following:

A.     Human genitals in a state of sexual stimulation or arousal;

- B. Acts or representations of acts of human masturbation, sexual intercourse, sodomy, bestiality, oral copulation or flagellation;
- C. Fondling or erotic touching of human genitals, pubic regions, buttock or female breast;
- D. Excretory functions as part of or in connection with any of the activities set forth in paragraphs A through C above.

**124.02 LICENSE.** It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located or situated within the City, the activities of an adult entertainment business, unless there has been granted to such person a valid license, pursuant to the provisions of this chapter. A separate license shall be required for each location within the City at which an adult entertainment business is to be established.

**124.03 SITING CRITERIA.** No person shall cause or permit the establishment of any adult entertainment businesses within 500 feet of any school, church, public park, public playground, public plaza or residential area. Measurements shall be taken on a direct line from the main entrance of such adult entertainment business to the point on the property line of such school, church, public park, public playground, public plaza or residential area which is closest to the said main entrance of such adult entertainment business. The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business or the conversion of an existing business to any of the uses defined as an adult entertainment business.

**124.04 DISPLAY OF LICENSE.** Every adult entertainment business shall display a valid license in a conspicuous place within the business so that the same may be readily seen by persons entering the premises.

**124.05 LICENSE TERM.** The term of an adult entertainment business license shall be for a period of one year; provided, however, all licenses shall expire on June 30 of each year unless sooner suspended or revoked.

**124.06 LICENSE RENEWAL.** An adult entertainment business license, issued pursuant to the provisions of this chapter, which has not been suspended or revoked, may be renewed for a period not to exceed one year upon written application to the Clerk, made at least 30 days prior to the expiration date of the current valid license. The application for renewal of a license shall contain all of the information required by Section 124.07 of this chapter and shall be processed in accordance with the provisions of this chapter.

**124.07 APPLICATION FOR ADULT ENTERTAINMENT BUSINESS LICENSE; CONTENTS, RENEWAL, REQUIRED FEE.**

1. Any person desiring to obtain a license or renew an existing license to operate an adult entertainment business shall make application to the Clerk. Prior to submitting such application for a license or renewal, a nonrefundable fee of \$1,000.00 shall be paid to the Clerk to defray the cost of the investigation and report required by this chapter. The Clerk shall issue a receipt showing that such application or renewal fee has been paid. License issuance or renewal fees required under this chapter are in addition to any license, permit or fee required under any other chapter of the Code.

2. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the conducting of an adult entertainment business until such license has been granted or renewed.
3. Each applicant for an adult entertainment business license or renewal shall furnish the following information:
  - A. The present or proposed address where the business is to be conducted.
  - B. The full, true name under which the business will be conducted.
  - C. The full, true name and any other names used by the applicant, date of birth and social security number.
  - D. The present residence and business address and telephone numbers of the applicant.
  - E. Acceptable written proof that the applicant, manager or other person principally in charge of the operation of the business is at least 18 years of age.
  - F. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and the name, residence address, date of birth and social security number of each of its current officers and directors. If the applicant is a partnership, the applicant shall set forth the name, residence address, date of birth and social security number of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. The designated person shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee shall be charged.
  - G. In the event the applicant is not the owner of record of the real property upon which the adult entertainment business is or is to be located, the application must be accompanied by a notarized statement from the owner of record of the property acknowledging that an adult entertainment business is or will be located on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name and address of the owner of record of the property, as well as a copy of the lease or rental agreement pertaining to the premises in which the adult entertainment business is or will be located.
  - H. A full and detailed definition of the service to be provided.
  - I. The applicant's business, occupation or employment history for the three-year period immediately preceding the date of filing the application. If the applicant is a corporation or partnership, the applicant shall supply this information for each officer, director or partner.
  - J. The permit history of the applicant, or in the case of a corporation or partnership, of each director, officer or partner, for the five-year period immediately preceding the date of filing the application, including whether the applicant has ever had a similar license issued by the City or any other

city, county, state or agency, and whether that license has been suspended or revoked.

K. All criminal convictions and civil infraction violations of the applicant or each corporate director, officer or partner, excluding simple misdemeanor traffic offenses, including the date, place, nature and sentence of each conviction or infraction.

L. Such other identification and/or information as the Clerk may require in order to discover the truth of the matter required to be set forth in the application.

4. When any change occurs regarding the written information required by subsection 3 to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Clerk within 24 hours after such change.

5. The Clerk shall complete the certification that the premises is in compliance, or not in compliance, within 20 days of receipt of the application.

6. The Clerk, within 30 days after receiving the application, shall grant the license or renewal license only if the Clerk finds that all of the following requirements have been met:

A. The required fees have been paid.

B. The application and location conforms in all respects to the provisions of this chapter and other applicable provisions of the City and State Codes.

C. The applicant has not knowingly made a material misrepresentation of fact in the application.

D. The applicant has fully cooperated in the investigation of the application.

E. The applicant, manager or other person principally in charge of the operation of the business is at least 18 years of age.

7. If the Clerk does not find that all of the requirements set forth in subsection 6 have been met, the Clerk shall deny the application for the license or renewal thereof. In the event the application for the license or renewal is denied by the Clerk, written notice of the denial shall be given to the applicant, specifying the grounds for such denial. Notice of the denial of the application for the license or renewal shall be deemed to have been served if it is in fact personally served on the applicant, or when deposited in the United States mail with postage prepaid and addressed to the applicant at the residence address set forth in the application for the permit or renewal thereof. Any applicant whose application for an adult entertainment business license or renewal has been denied by the Clerk may appeal such denial to the Council within 20 days of such denial. Applicants may seek prompt judicial review of this administrative action in any court of competent jurisdiction.

#### **124.08 PROHIBITED ACTIVITIES OF ADULT ENTERTAINMENT BUSINESS.**

1. No holder of an adult entertainment business license shall employ any person under 18 years of age.

2. No holder of an adult entertainment business license shall furnish any merchandise or services to any person who is under 18 years of age.

3. No adult entertainment business shall be conducted in any manner that permits the observation of a model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other openings from any public way or from any property not licensed as an adult entertainment business.
4. No holder of an adult entertainment business license or any officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by this Code or any law of the State or the United States.
5. No adult entertainment business shall employ escorts or models who do not possess a permit as required by Section 124.09.
6. No part of the interior of the adult entertainment business shall be visible from the outside of the premises.
7. No alcoholic beverages shall be consumed or permitted on the premises of an adult entertainment business.
8. No employee, escort, model, or other contract worker or person shall expose his or her genitals or buttocks.

**124.09 ESCORT/MODEL PERMIT REQUIRED.** It is unlawful for any person to act as an escort/model unless there has been granted to such person a valid permit, pursuant to the provisions of this chapter. Such permit shall be issued to the address of the employer of the escort/model, who must in turn also hold a valid adult entertainment business license issued by the City, pursuant to the provisions of this chapter. Upon request, the Clerk may issue a new card whenever the escort/model changes employers.

**124.10 TERM OF PERMIT.** The term of an escort/model permit shall be for a period of one year; provided, however, all permits shall expire on June 30 of each year unless sooner suspended or revoked.

**124.11 PERMIT RENEWAL.** An escort/model permit issued pursuant to the provisions of this chapter, which has not been suspended or revoked, may be renewed for a period not to exceed one year upon written application to the Clerk made at least 60 days prior to the expiration date of the current valid permit. The application of renewal of a permit shall contain all of the information required by Section 124.13 of this chapter and shall be processed in accordance with the provisions of this chapter.

**124.12 PERMIT IDENTIFICATION CARD.** Each escort/model permit holder shall be issued an identification card which will also serve as an escort/model permit. The permit holder shall carry such card upon his or her person when acting as an escort/model and produce the same for inspection upon request. Each permit holder shall immediately surrender to the Clerk any escort/model permit upon the suspension, revocation or expiration of such permit or upon leaving employment as an escort/model. A valid permit may be transferred to the premises of a new employer upon payment of a transfer fee of \$100.00.

**124.13 PERMIT RENEWAL APPLICATION.**

1. Any person desiring to obtain a permit or renewal of an existing permit, to act as an escort/model, shall make application to the Clerk. Prior to submitting such



application for a permit or renewal of a permit, a nonrefundable fee of \$500.00 shall be paid to the Clerk to defray, in part, the cost of the investigation and report required by this chapter. The Clerk shall issue a receipt showing that such permit application or renewal fee has been paid.

2. Neither the filing of an application for a permit or renewal thereof nor payment of an application or renewal fee shall authorize a person to act as an escort/model until such permit has been granted or renewed.

3. Each applicant for an escort/model permit or renewal shall furnish the following information:

A. The present or proposed address of the applicant's employer who has an adult entertainment business license.

B. The full true name under which the business will be conducted.

C. The full true name and any other names used by the applicant in the past three years.

D. The present residence address and telephone numbers of the applicant.

E. Each residence of the applicant for the three-year period immediately preceding the date of filing of the application and the inclusive dates of each address.

F. Social security number of the applicant.

G. Acceptable written proof that the applicant is at least 18 years of age.

H. The applicant's height, weight, color of eyes and hair and date of birth.

I. Two photographs of the applicant, at least two inches by two inches in size, taken within the six-month period immediately preceding the date of the filing of the application.

J. The business, occupation or employment history of the applicant for the three-year period immediately preceding the date of the filing of the application.

K. The permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant in previously operating in the City or any other city, county, state or territory, has ever had any similar license or permit issued by such agency revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason or reasons therefor.

L. All criminal convictions suffered by the applicant, including chapter violations, but excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature and sentence of each such conviction.

M. A certificate from a medical doctor licensed to practice in the State of Iowa, stating that the applicant has within 30 days immediately preceding the date of application been examined and found to be free of any contagious or communicable disease.

N. Satisfactory evidence that the applicant is employed or has been offered employment, by an adult entertainment business holding a valid license issued by the City including the name and address of the employer or prospective employer and the fact that such employment or continued employment is contingent upon the issuance of said permit.

O. Such other identification and information as the Clerk may require in order to discover the truth of the matters required to be set forth in the application.

4. The application shall be referred to the County Sheriff for investigation and recommendation.

5. The County Sheriff shall have a reasonable period of time in which to investigate the application and background of the applicant.

6. The County Sheriff, within 30 days after receiving the application, shall recommend granting the permit, or renewal thereof, only if the Sheriff finds that all of the following requirements have been met:

A. The required fees have been paid.

B. The application forms in all respects to the provisions of this chapter.

C. The applicant has not knowingly made a material misrepresentation of fact in the application.

D. The applicant has fully cooperated in the investigation of the application.

E. The applicant has furnished an acceptable medical certificate in compliance with paragraph 3(M) of this section.

F. The applicant has not had an adult entertainment business or escort/model permit or other similar license or permit denied or suspended or revoked for cause by any city or county located in or out of the State within the past 12 months immediately preceding the date of the filing of the applicant.

G. The applicant is at least 18 years of age.

H. The applicant has not in the past 24 months been convicted or pleaded guilty to a misdemeanor or felony crime of moral turpitude or a misdemeanor or felony crime involving sexual misconduct or any offenses involving pimping, pandering, prostitution or lewd conduct.

7. If the County Sheriff does not find that all of the requirements set forth in subsection 6 have been met, the County Sheriff shall recommend denial of the application for the permit or renewal thereof. In the event the application for the permit or renewal is denied by the Clerk, written notice of such denial shall be given to the applicant specifying the grounds for such denial. Notice of denial of the application for the permit or renewal thereof shall be deemed to have been served if it in fact is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her address as set forth in the application for the permit or renewal thereof. Any applicant whose application for an escort/model permit, or renewal thereof, has been denied by the Clerk may appeal such denial to the Council within 20 days of such denial.

Applicants may seek prompt judicial review of this administrative action in any court of competent jurisdiction.

8. When any change occurs regarding the written information required by subsection 3 of this section, the applicant or permit holder, as the case may be, shall give written notification of such change to the Clerk within 24 hours after such change.

**124.14 UNLAWFUL ACTS.** It is unlawful for:

1. The holder of an escort/model permit to escort, offer to escort or perform any activity described in Section 124.01 for any person under 18 years of age.
2. An escort or model to offer to sell any merchandise or perform any act or offer any services as described in subsection 124.01(1)(F) and 124.01(7) upon any premises not licensed as an adult entertainment business.
3. Any person while upon any premises licensed as an adult entertainment business to place his or her hands upon or touch with any part of his or her body or fondle in any manner a sexual or genital part of any other person.
4. A patron while on the premises of an adult entertainment business to disrobe so as to become nude except in preparation for bathing or swimming or while actually bathing.
5. An escort to disrobe so as to become nude while performing any of the services listed in Section 124.01.
6. The holder of an escort/model permit to consume or possess alcoholic beverages while on the premises of an adult entertainment business.
7. The holder of an escort/model permit to expose female or male genitals or buttocks while on the premises of an adult entertainment business.

**124.15 SIGN REQUIRED.** The holder of an adult entertainment business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 years is allowed on the premises. This section shall not be construed to prohibit the holder from establishing an older age limitation for coming on the premises.

**124.16 SALE OR TRANSFER.** Upon the sale or transfer of any interest in an adult entertainment business, the license shall immediately become null and void. A new application shall be made by a person desiring to own or operate the adult entertainment business. An application fee of \$1,000.00 shall be payable for each such application. Any application involving the sale or other transfer of any interest in an existing adult entertainment business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

**124.17 CHANGE OF LOCATION OR NAME.**

1. A permittee and/or licensee shall not transfer his or her permit and/or license to another, nor shall a permittee and/or licensee operate an adult entertainment business under the authority of a permit and/or license at any place other than the address designated in the application.

2. No license holder shall operate an adult entertainment business under any name or designation not specified in the license.

**124.18 SUSPENSION OR REVOCATION OF A LICENSE OR PERMIT.** If the Clerk finds that any person holding an adult entertainment business license under the provisions of this chapter has violated any of the provisions of this chapter, State or Federal law or conducts such business in such a manner as would have been grounds for denial of a permit as set forth in Section 124.07(7), or if the Clerk finds that any person holding an escort/model permit is engaging in behavior or actions which violate any of the provisions of this chapter or any State or Federal law or which would have been grounds for denial of a license or permit as set forth in Section 124.13(7), the Clerk may suspend or revoke the license or permit. No such suspension or revocation shall become effective until the permit or license holder has been notified in writing of the right of such license or permit holder to appeal the suspension or revocation to the Council within 20 days of the date of notice of such suspension or revocation. Notification to the license or permit holder shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the license or permit holder at such license or permit holder's residence address as set forth in the application for a license or permit or renewal thereof. If a timely appeal is filed, the suspension or revocation shall be stayed and shall become effective only upon the final decision of the Council. Otherwise, the suspension or revocation shall become effective after the timely appeal period has expired.

**124.19 CONDUCTING AS A NUISANCE.** Any adult entertainment business operated, conducted or maintained contrary to the provisions of the chapter shall be and the same is hereby declared to be unlawful and a public nuisance, and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal or enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this chapter.

**124.20 VIOLATION.**

1. Each and every day that the violation of this chapter is permitted to exist after notification shall constitute a separate and distinct offense.
2. Each separate offense in a violation of this chapter shall constitute a separate offense.
3. The owner or tenant of any premises or part thereof and any contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense.
4. Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling on Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	

**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 unless such person first obtains prior approval of the Council. Excavations shall be done in accordance with the following:

1. 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
2. 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 responsible person/property owner.
3. Bond Required. The responsible person/property owner shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the responsible person/property owner's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
4. Insurance Required. Each responsible person/property owner shall also file a certificate of insurance indicating that the responsible person/property owner is carrying public liability insurance in effect for the duration of the permit covering the responsible person/property owner and all agents and employees for the following minimum amounts:
  - A. Bodily Injury ó \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage ó \$50,000.00 per accident.
5. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the responsible person/property owner.
6. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The responsible person/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.
7. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the responsible person/property owner.
8. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the responsible person and/or property owner. The responsible person and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

9. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

**135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.<sup>Å</sup>

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

**135.11 FAILURE TO MAINTAIN.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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<sup>Å</sup> **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1.     öBroom finishö means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2.     öDefective sidewalkö means any public sidewalk exhibiting one or more of the following characteristics:
  - A.     Vertical separations equal to three-fourths inch or more.
  - B.     Horizontal separations equal to one inch or more.
  - C.     Holes or depressions equal to three-fourths inch or more and at least four inches in diameter.
  - D.     Spalling over 50 percent of a single square of the sidewalk with one or more depressions equal to one-half inch or more.
  - E.     Spalling over less than 50 percent of a single square of the sidewalk with one or more depressions equal to three-fourths inch or more.
  - F.     A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - G.     A sidewalk with any part thereof missing to the full depth.
  - H.     A change from the design or construction grade equal to or greater than three-fourths inch per foot.
3.     öEstablished gradeö means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4.     öOne-course constructionö means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5.      "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
6.      "Portland cement" means any type of cement except bituminous cement.
7.      "Sidewalk" means all permanent public walks in business, residential or suburban areas.
8.      "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
9.      "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations after a period of 12 hours following cessation of the storm or other cause of the accumulation, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

**136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width, and Depth. Length, width, and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length.
  - B. Central business district sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
  - C. Driveway areas shall be not less than four inches thick for residential applications and not less than six inches in thickness for all other applications including alley crossings.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it is 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 are liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

*(Code of Iowa, Sec. 364.7)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

*(Code of Iowa, Sec. 174.15[2] & Sec. 364.7[3])*

[illegible]



## CHAPTER 138

## STREET GRADES

### 138.01 Established Grades

**138.02 Record Maintained**

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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## CHAPTER 139

# CONTROLLED ACCESS FACILITIES

139.01 Exercise of Police Power  
139.02 Definition  
139.03 Right of Access Limited  
139.04 Access Controls Imposed

139.05 Unlawful Use of Controlled Access Facility  
139.06 Permitted Access Points  
139.07 Speed Limits  
139.08 Parking Restricted

**139.01 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)*

**139.02 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)*

**139.03 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)*

**139.04 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. FN-1102. On the Primary Road System extension improvement, Project No. FN-1102 Primary Road No. Iowa 291, within the City, described as follows:

*On present route of Iowa 291 from the north corporation line of Low Moor southerly 1358.8 lineal feet, more or less, to a point near the south line of Third Avenue, being from Sta. 13+30.8 to Sta. -1+72,*

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-1102, on file in the office of the Clerk.

**139.05 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.

**139.06 PERMITTED ACCESS POINTS.** Points of access are hereby permitted as follows:

*(Code of Iowa, Sec. 306A.4)*

1. Project No. FN-1102. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. FN-1102 is hereby recorded as follows:

STATION	SIDE	WIDTH	PURPOSE
0+00	Right and Left		Centerline 3 <sup>rd</sup> Avenue
0+89	Left	14 feet	Residential
1+30	Right	32 feet	Commercial
1+89	Left	24 feet	Commercial
1+89	Right	18 feet	Residential
2+40	Left		Centerline 2 <sup>nd</sup> Avenue
2+64	Right	18 feet	Residential
2+94	Right	18 feet	Residential
3+52	Left	18 feet	Commercial
3+85	Left	12 feet	Commercial
4+12	Left and Right		Centerline 1 <sup>st</sup> Avenue
6+19	Right	12 feet	Residential
6+19	Left	35 feet	Commercial
7+93	Left	14 feet	Residential
13+30	Right	18 feet	Field Entrance

**139.07 SPEED LIMITS.** The maximum speed limits on Project No. FN-1102 are as follows:

1. 20 mph from Station -1+72 to Station 6+00 (north of tracks).
2. 45 mph from Station 6+00 to Station 13+30.8.

**139.08 PARKING RESTRICTED.** The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of 35 feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of 35 feet.

3. Diagonal Parking on Minor Street. Where diagonal parking is permitted, on the minor street approach, parking shall be restricted so that a 55 foot stop sign distance is maintained.
4. Intersection. Parking shall be prohibited on the Primary Road Extensions a distance of 55 feet in advance of the near crosswalk and a distance of 22 feet beyond the far crosswalk.
5. Project No. FN-1102. Parking of any nature (including angle parking) is prohibited on Project No. FN-1102 in any of the following specifically designated locations:
  - A. From 1<sup>st</sup> Avenue to Station 13+30.8 and for a distance of 35 feet from the back of sidewalk line of intersecting street approaches. However, a single line of parallel parking will be permitted on from 3<sup>rd</sup> Avenue to 1<sup>st</sup> Avenue on each side of the street.

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## CHAPTER 145

### DA<sup>NGER</sup>OUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish; Municipal Infraction  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures that are structurally unsafe or not provided with adequate egress, or 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.** ðUnsafe buildingö means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**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 LOW MOOR, 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.<sup>A</sup>

**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.

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<sup>A</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.



*(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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## CHAPTER 150

### TREES

150.01 Definitions

150.02 Planting Regulations

150.03 Public Tree Care

150.04 Pruning; Corner Clearance

150.05 Removal of Dead or Diseased Trees

150.06 Procedure Upon Order to Preserve or Remove

150.07 Removal of Stumps

150.08 Abuse or Mutilation of Trees

150.09 Violation

150.10 Emergencies

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

1. "Parking" means that part of the street, avenue or highway in the City not covered by the 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 vehicle traffic.
2. "Street tree" or "tree" means a tree in the public place except where otherwise indicated. Trees located within parkings are street trees. Trees located within City parks or upon City property are referred to as "park trees."

**150.02 PLANTING REGULATIONS.** No trees shall be planted in the area between the sidewalk and curb line or street right-of-way.

**150.03 PUBLIC TREE CARE.** The City and Iowa Electric Light & Power Company shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. Not less than two weeks before the proposed removal of City trees, adjacent property owners will be notified in writing by ordinary mail of the proposed action and their right to request a public hearing before the City Tree Board. In those cases referred to it, the Council, following the public hearing, shall rule within five days if the City tree shall be removed or pruned. The Council may remove or cause or order to be removed any tree, shrub or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest, or which obstructs view of traffic.

**150.04 PRUNING; CORNER CLEARANCE.** Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches do not obstruct the light from any street lamp or obstruct the view of any street light intersection and so that there shall be a clear space of eight feet above the surface of the sidewalk and at least 14 feet above the surface of the street. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

**150.05 REMOVAL OF DEAD OR DISEASED TREES.** The City has the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees within the City. The Council shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

**150.06 PROCEDURE UPON ORDER TO PRESERVE OR REMOVE.** When the City finds it necessary to order the trimming, preservation or removal of trees or plants upon private property, it shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

1. Method of Service. The order required herein shall be served in one of the following ways:

- A. By making person delivery of the order to the person responsible.
- B. By leaving the order with some person of suitable age and discretion upon the premises.
- C. By affixing a copy of the order to the door of the entrance of the premises in violation.
- D. By mailing a copy of the order to last known address of the owner of the premises, by registered mail.
- E. By publishing a copy of the order in a local paper once a week for three successive weeks.

2. Time for Compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City shall have the authority to require compliance immediately upon service of the order, or remove the hazard at City cost without right of appeal.

3. Appeal From Order. A person to whom an order hereunder is directed shall have the right, within 24 hours of the service of each order, to appeal to the Council, who shall review such order within 30 days and file its decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within three days after an appeal shall have been determined.

4. Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, the City shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.

5. Special Assessment. If the cost of remedying a condition is not paid within 30 days after receipt of a statement therefor from the City, such cost shall be levied against the property upon which said hazard exists as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as herein provided. Such special assessment shall be certified by the City to the County Treasurer and shall thereupon

become and be a lien upon such property, shall be included in the next tax bill rendered to the owner or owners thereof unless paid before, and shall be collected in the same manner as other taxes against such property.

**150.07 REMOVAL OF STUMPS.** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump does not project above the surface of the ground.

**150.08 ABUSE OR MUTILATION OF TREES.** No person shall:

1. Damage, cut, carve, transplant or injure the bark of street or park trees.
2. Remove any healthy street or park tree or plant without the approval of the Council.
3. Attach any rope, wire or other contrivance to any street or park tree or plant.
4. Dig in or otherwise disturb, injure or impair the root systems of street or park trees.
5. Cause or permit any wire charged with electricity to come in contact with street or park trees or plant or allow any gaseous, liquid or solid substance which is harmful to such trees or plants to come in contact with them.

**150.09 VIOLATION.** A violation of this chapter is a violation of this Code of Ordinances. Each day that a violation by any person of the provisions of this chapter is committed or permitted to continue shall constitute a separate offense, except when under appeal.

**150.10 EMERGENCIES.** The City shall, by resolution, declare a state of emergency in the event of storm, disaster, tree disease or other cause and order the removal of trees, fallen limbs or debris at City cost and expense.

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## CHAPTER 160

# FLOOD PLAIN MANAGEMENT

160.01 Statutory Authority, Findings of Fact and Purpose	160.06 Administration
160.02 Definitions	160.07 Nonconforming Uses
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160.04 Establishment of Flood Plain (Overlay) District	160.09 Amendments
160.05 Standards for Flood Plain (Overlay) District	

### 160.01 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 Low Moor 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 flood plain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City of Low Moor 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 160.01(2)(A) of this chapter with provisions designed to:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities that serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

C. Protect individuals from buying lands that may not be suited for intended purposes because of flood hazard.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1.       “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. (See “100-year flood.”)
2.       “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. (Also see “lowest floor.”)
3.       “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as those terms are defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
4.       “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the first flood plain management regulations adopted by the community.
5.       “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first flood plain management regulations adopted by the community.
6.       “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7.       “Factory-built home” means any structure, designed for residential use which is wholly (or in substantial part) made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes, and modular homes and also include recreational vehicles that are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8.       “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9.       “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10.      “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.



11. "Flood Insurance Rate Map (FIRM)" means the official map prepared as part of (but published separately from) the Flood Insurance Study and which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.
13. "Flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing and flood plain management regulations.
14. "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. "Historic structure" means any structure that is:
  - A. Listed individually in the National Register of Historic Places maintained by the Department of Interior or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing 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 either: (i) by an approved state program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
  - A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.05(4)(A) of this chapter; and
  - B. The enclosed area is unfinished (not carpeted, dry-walled, 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 foot above the 100-year flood level; and
- D. The enclosed area is not a basement, as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

- 19. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than \$500.00.
- 20. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first flood plain management regulations adopted by the community.
- 21. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of first flood plain management regulations adopted by the community.
- 22. "100-year flood" means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.
- 23. "Recreational vehicle" means a vehicle that is:
  - A. Built on a single chassis;
  - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
- 24. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
  - A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window panes;
  - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

25. "Special flood hazard area" means the land within a community subject to the 100-year flood. This land is identified as Zone A on the community's Flood Insurance Rate Map.

26. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

28. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

29. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 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 a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after 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.

30. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

31. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

**160.03 GENERAL PROVISIONS.**

1. **Lands to Which Chapter Applies.** The provisions of this chapter shall apply to all lands within the jurisdiction of the City of Low Moor which are located within the boundaries of the Flood Plain (Overlay) District as established in Section 160.04.
2. **Rules for Interpretation of Flood Plain (Overlay) District.** The boundaries of the Flood Plain (Overlay) District areas shall be determined by scaling distances on the Official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Clerk 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 Clerk in the enforcement or administration of this chapter.
3. **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
4. **Abrogation and Greater Restrictions.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
5. **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
6. **Warning and Disclaimer of Liability.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Low Moor or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
7. **Severability.** If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

**160.04 ESTABLISHMENT OF FLOOD PLAIN (OVERLAY) DISTRICT.** The areas within the jurisdiction of the City of Low Moor having special flood hazards are hereby designated as a Flood Plain (Overlay) District and shall be subject to the standards of the Flood Plain (Overlay) District (as well as those for the underlying zoning district). The Flood Plain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Clinton County and Incorporated Areas, City of Low Moor, Panel 1, dated July 2, 2012.

**160.05 STANDARDS FOR FLOOD PLAIN (OVERLAY) DISTRICT.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute

such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development. All development within the Flood Plain (Overlay) District shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator.
4. All New and Substantially Improved Structures.
  - A. Fully enclosed areas below the lowest floor (not including basements) which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-Built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of Flammable Materials. Storage of equipment and materials that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and

equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to floodwaters; or (ii) readily removable from the area within the time available after flood warning.

8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourses. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. 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 chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.

(2) 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.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of flood waters.

(4) The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of paragraph 4(A) of this section.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.
  - A. Recreational vehicles are exempt from the requirements of subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
    - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and
    - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
  - B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of subsection 5 of this section regarding anchoring and elevation of factory-built homes.
13. 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.

#### **160.06 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of City Administrator.
  - A. The City Clerk is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
  - B. Duties of the Administrator shall include, but not necessarily be limited to the following:
    - (1) Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
    - (2) Review flood plain 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 flood plain construction.
    - (3) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the Flood Plain (Overlay) District.
    - (4) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been flood proofed.
    - (5) 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.



(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

2. Flood Plain Development Permit.

A. Permit Required. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

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 (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Indication of the use or occupancy for which the proposed work is intended.

(4) Elevation of the 100-year flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.

(7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building 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 chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans. Flood Plain 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 chapter. 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, building floor elevations, flood proofing, or other flood protection measures were

accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

3. Variance.

A. The City Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

B. 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 chapter and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a flood plain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- (12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- (13) Such other factors which are relevant to the purpose of this chapter.

C. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitation of periods of use and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, dikes, levees and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
- (5) Flood proofing measures.

#### **160.07 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

- A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.
- B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**160.08 PENALTIES FOR VIOLATIONS.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained prevents the City from taking such other lawful action as is necessary to prevent or remedy violation.

**160.09 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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## CHAPTER 165

# ZONING REGULATIONS

165.01 Purpose	165.11 Minimum Dimension Requirements
165.02 Definitions	165.12 Fences, Walls and Hedges
165.03 Districts Designated	165.13 Special Permit
165.04 Boundaries	165.14 Permits and Certificates of Occupancy
165.05 Annexations	165.15 Board of Adjustment
165.06 Vacation; Effect	165.16 Certificate for Nonconforming Use
165.07 Exceptions	165.17 Effect of Use Abandonment
165.08 Residential District Regulations	165.18 Amendments
165.09 Business District Regulations	165.19 Enforcement
165.10 Industrial District Regulations	165.20 Violation

**165.01 PURPOSE.** The purpose of this chapter is to provide adequate light and air, to prevent this overcrowding of land, to avoid undue concentration of populations, to regulate the use of land and to promote the health, morals, safety and general welfare in the City of Low Moor, Iowa.

**165.02 DEFINITIONS.** For use in this chapter, certain terms and words are hereby defined. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

1. "Dwelling" is a building used as the living quarters for one or more families, not including auto courts, rooming homes or tourist homes.
2. "Structure" means a combination of materials other than a building to form a construction that is safe and stable and includes among other things stadiums, platforms, radio towers, sheds, storage bins, fences, signs and chicken coops.
3. "Yard, front" means a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies or uncovered porch. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
4. "Yard, rear" means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than the projections or uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yards shall be in the rear of the front yard.
5. "Yard, side" means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

**165.03 DISTRICTS DESIGNATED.** The City of is hereby divided into three districts, known as:

Residential Districts  
Business Districts

## Industrial Districts

**165.04 BOUNDARIES.** Such districts are bounded and defined as shown on a map entitled "Zoning Map of the City of Low Moor, Iowa" adopted in 1985 and certified by the City Clerk, which map is hereby made a part of and incorporated into this title with all explanatory matters therein. *(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

**165.05 ANNEXATIONS.** All territory which may hereafter be annexed to the City shall be automatically classified in the Residential District until otherwise changed by ordinance after public hearing.

**165.06 VACATION; EFFECT.** Whenever any street, alley, or other public way is vacated or plotted or opened by official action of the Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such action, and all area included in the action shall then and henceforth be subject to all appropriate action of the extended districts.

**165.07 EXCEPTIONS.**

1. No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
2. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.
3. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.
4. The minimum yards and other open spaces, including lot area per family, required by this chapter, or for any building or structure hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this chapter.
5. Every building or structure hereafter erected or is structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.

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**165.08 RESIDENTIAL DISTRICT REGULATIONS.**

1. Use Regulations. A building or premises shall be used only for the following purposes:

- A. One- and two-family dwelling units.
- B. Churches and places of worship and parochial schools.
- C. Public schools, public libraries, parks, playgrounds.
- D. Greenhouses and customary agricultural operations, but no livestock or fowl are to be raised in the district.
- E. Small home occupations, provided that there shall be no signs or other evidence of such use other than a small announcement or professional sign not over two square feet in size.
- F. Rooming and boarding houses, tourist homes.
- G. 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.
- H. Public utility structures necessary for the service of the area.
- I. 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. Front Yard Regulations. There shall be a front yard having a depth of not less than 25 feet, unless 30 percent or more of the lots within the frontage and within 200 feet are improved with buildings that have observed a greater or less depth of front yard, then no portion of a new building shall project beyond a straight line drawn beyond the point closest to the street line of the building upon either side of the proposed building, or if there is a building upon only one side, then beyond the straight line projected from the front of the two nearest buildings, but this regulation shall not be interpreted to require a front yard depth of more than 50 feet, unless otherwise specified in this chapter.

3. Side Yard Regulations. There shall be a side yard on each side of the building or group of attached buildings of not less than eight percent of the width of the lot, except that on any lot of record prior to passage of these zoning regulations which is less than 60 feet in width, the side yard need not be greater than three feet in width.

4. Rear Yard Regulations. Except hereinafter provided, there shall be a rear yard having a depth of not less than 25 feet or 20 percent of the depth of the lot, whichever amount is smaller, but it shall not be less than 15 feet.

5. Lot Area Per Family Regulations. Every lot or tract of land shall have an area of not less than 6,000 square feet and an average width of not less than 60 feet except that if a lot has less area or width than herein required, and was of record at the time

of the effective date of these zoning regulations, that lot or tract may be occupied by a use permitted in this district.

6. Building Area Limitation. No building with its accessory buildings shall occupy in excess 50 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.

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**165.09 BUSINESS DISTRICT REGULATIONS.**

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. All the uses permitted in any residential district subject to all the provisions specified for such residential districts.

B. Stores and shops for the conducting of any lawful retail business.

C. Personal service shops.

D. Banks, theatres, offices, restaurants.

E. Garages and filling stations upon the approval of the Board of Adjustment and subject to such conditioned safeguards as deemed appropriate by such Board and upon the securing of a permit therefor, subject to the following provisions:

(1) Pumps, lubricating or other devices are located at least 20 feet from any street line or highway right-of-way.

(2) All fuel, oil or similar substances are stored at least 35 feet distant from any street or lot line.

F. Wholesale business allowed. Storage in bulk of, or warehouses for, materials such as: (i) building material; (ii) contractor's equipment; (iii) farm equipment and implements; (iv) clothing; (v) drugs; (vi) food; (vii) hardware.

G. The wholesale or bulk storage of petroleum and other explosive or combustible mixtures is permitted subject to conformance to all rules, regulations by the Fire Chief and fire or safety ordinances pertinent to the storage of such products.

H. Other uses permitted:

Advertising signs and billboards.

Amusement places.

Apartment houses.

Auction room.

Bakeries.

Blacksmith and locksmith shops.

Electric repair shops.

Freight stations.

Hotels.

Laundries.

Painting and decorating shops.

Photographic galleries.

Plumbing shops.

Police and fire department stations.

Post offices.

Printing shop.

Railroad passenger station.

Recreation buildings and structures

Roofing or plastering shops or both.

Sales and/or show rooms.

Shoe repair shops.  
Telegraph service stations.  
Undertaking establishments.

Other uses are allowed which, in the opinion of the Board of Adjustment, are of the same general character as those listed above and which will not be detrimental to the district in which they are located.

2. Building Height Limit. No building shall be erected to a height in excess of 50 feet.
3. Required Dimensions. Lot dimensions shall not be less than 50 feet in width and 50 feet in depth.
4. Yards Required.
  - A. Rear Yard: There shall be a rear yard of not less than 10 percent of the depth of the lot.
  - B. Side Yard: A side yard, if provided, shall not be less than three feet wide.
5. Percentage of Lot Coverage. No building with its accessory building, to be used for said commercial purposes, shall occupy in excess of 90 percent of the area of the lot. No side yard is necessary except on the side of a lot adjoining a residential district. Any building used for residence purposes shall have a lot area and lot width equal to that required in the least restricted residence district for the same type of dwelling.
6. Storage Buildings. Buildings used for storage shall be wood-frame or cement structures. Semi-trailers are not permitted to be used for storage.

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**165.10 INDUSTRIAL DISTRICT REGULATIONS.**

1. Use Regulations.
  - A. No dwelling units are permitted in this district.
  - B. All uses not otherwise prohibited by law or uses otherwise prohibited by ordinance.
  - C. Junk yards or automobile wrecking yards, scrap iron, scrap paper or rag storage. Sorting of baling must be entirely enclosed within a fence, or by other means of concealment as approved by the Board of Adjustment.
2. Uses Prohibited. All uses of land, buildings, 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. And, in general, those uses which have been declared a nuisance in any court of record, or which may be unreasonably obnoxious, unhealthful, or offensive by reason of the emission of odor, dust, smell, smoke or noise.
3. Review of Prohibited Uses by Board of Adjustment. The above prohibitions are subject to review by the Board of Adjustment and such uses may be permitted if approved by the Board and subject to the securing of a permit therefor and to such conditions, restrictions, and safeguards as may be deemed necessary for the purpose of protecting the health, safety, morals or general welfare of the community.
4. Yards Required. No rear or side yards are required. Each lot shall have a front yard not less than 25 feet in depth.
5. Storage Buildings. Buildings used for storage shall be wood-frame or cement structures. Semi-trailers are not permitted to be used for storage.

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**165.11 MINIMUM DIMENSION REQUIREMENTS.** The purpose of this chapter is require all new family dwellings to have minimum dimensions of the main body of the dwelling, either length or width, of least 20 feet.

1. Definitions. For use in this section, certain terms and words are hereby defined. The word "building" includes the word "structure" and the word "lot" includes the words "lot or parcel."

A. "Dwelling" means a building or portion thereof designed or used exclusively for residential occupancy, including home trailers, mobile homes, modular homes, factory-built structures or housing, and manufactured homes.

B. "Factory-built structure" means any structure which is, wholly or in substantial part, made, fabricated, formed or assembled manufacturing facilities for installation, or assembly and installation, on a building site.

C. "Factory-built housing" means a factory-built structure designed for long-term residential use. For the purpose of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.

D. "Modular home" means factory-built housing 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.

E. "Manufactured home" means a factory-built, single-family structure, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of these regulations, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.

F. "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 shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is factory-built on a chassis. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. However, certain mobile homes may be classified as "manufactured homes." Nothing in this chapter shall be construed as permitting the mobile home in other than an approved mobile home park, unless such mobile home is classified as a manufactured home.

2. Minimum Dimensions. All new one- and two-family dwellings erected or sought to be placed in either a residential or business district within the City of Low Moor, Iowa, after the effective date of this chapter shall have as a minimum dimension of the main body of the dwelling unit (either length or width) at least 20 feet.

#### **165.12 FENCES, WALLS AND HEDGES.**

1. Fences shall be constructed of material commonly used for landscape fencing, such as masonry block, lumber, chain link or natural plantings, but shall not include corrugated sheet metal, barbed wire, salvage material or be electrified unless otherwise allowed in this chapter.
2. Fences, walls or screen plantings may be located on a residential property on any property line and on any side property line from the front building line to the rear property line not to exceed six feet in height, and from the front building line to the front property line and along the front property line to a height not to exceed four feet.
3. On corner lots, the following requirements shall also be followed for all fences, walls or screen plantings.
  - A. Fences located on the front and side property lines abutting a street may not exceed four feet in height. If the fence does not provide openings of at least 75 percent in area of the vertical surface to permit the transmission of light, air or vision through the vertical surface at a right angle, a 20-foot visual clearance zone must be observed at all street intersections. A 10-foot visual clearance zone must be observed when a corner front or side property line abuts an alley.
  - B. Fences higher than three feet in side and rear yards of corner lots must be located 10 feet from the side property line on the corner side.
4. In commercial and industrial districts, nonresidential fences may be up to six feet in height around the property provided that all fences located in a front yard are constructed of see through material. If barbed wire is needed for security reasons, the height of the fence may be extended another foot to a maximum height of seven feet. However, the barbed wire cannot be closer than six feet to the ground, and may not overhang any public right of way. Any fences higher than these maximum heights or constructed of material other than see through material in front yards must be approved by the City Council. Visual clearance zones shall also apply in these districts.
5. Fences, walls or screen plantings do not need a building permit if they follow the above guidelines and if they are constructed no closer than three feet to any adjoining property line.

**165.13 SPECIAL PERMIT.** The City Council may, by special permit, after report of the Planning and Zoning Commission, and subject to such protective restrictions that it deems necessary, authorize the location, construction, or extension of any of the following buildings or uses, or an increase in their height, in any district from which these are prohibited by their sections.

1. Apartment houses.
2. Mobile homes and mobile home parks.

Before issuance of any special permit for any of the above buildings or uses the Planning and Zoning Commission shall report to the City Council upon the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the public health, public safety or general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the Planning and Zoning Commission has been filed, but such report shall be made within 60 days after the matter has been referred by the City Council. If the Planning and Zoning Commission recommends against the issuance of the special permit, then it may be issued only by an affirmative two-thirds vote of the City Council.

**165.14 PERMITS AND CERTIFICATES OF OCCUPANCY.** No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy and a building permit shall have been issued by the City Clerk in accordance with the provisions of this chapter and the building code requirements contained in this section.

1. Permit Requirement. No building shall hereafter be erected, altered or extended until a building permit shall have been issued by the City Clerk in accordance with the provisions of this section and this chapter.
2. Permit Fee. The permit fee for the issuance of a building permit and the inspection of construction shall be as follows:
  - A. For building or adding permanent square footage in a business, industrial, or business zone ó \$30.00.
  - B. For building a new permanent fence ó \$30.00.

The permit fee shall be paid when submitting the application for the permit.

3. Guidelines for Issuance of Permit. A building permit application must be submitted to the Clerk within seven days of the next regular Council meeting. The building permit application must include a rough drawing of the permanent square footage or fence being built. The property must also be marked and/or staked out as to where the new additional permanent footage or fence is proposed to be built. A permit for construction shall be issued only upon a showing by the applicant that the structure sought to be constructed is situated within an appropriate zoning district, is within the lot lines, is in compliance with the yard requirements set forth in this chapter and that the structure does not prove a risk to the health and safety of the occupants.

4. A Building Permit Inspector shall be appointed by a majority vote of the Council at the first meeting in January following the regular City election to serve for a term of two years. The inspector shall receive such compensation as established by resolution of the Council. The Building Permit Inspector shall review all building permit applications and plotted/marked building sites to ensure that the structure sought to be constructed is situated within an appropriate zoning district, is within the lot lines, is in compliance with the yard requirements set forth in this chapter, and that the structure does not prove a risk to the health and safety of the occupants. The Building Permit Inspector shall then report to the Council his or her findings, and the Council will vote as to whether the application will be approved or denied.

**165.15 BOARD OF ADJUSTMENT.** A Board of Adjustment is hereby created. The Board of Adjustment shall consist of five members, each to be appointed for a term of five years. The Board shall elect a Chairperson from its membership, and appoint a Secretary.

Matters of procedure, powers, and judicial review relating to this Board are regulated by statute.

**165.16 CERTIFICATE FOR NONCONFORMING USE.** The lawful use of any building or land existing at time of the enactment of these zoning regulations may be continued although such use does not conform with the provisions of this chapter.

**165.17 EFFECT OF USE ABANDONMENT.** Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this chapter.

**165.18 AMENDMENTS.** The boundaries of districts as now established and the regulations thereof may be amended, supplemented or changed, repealed by the City 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:

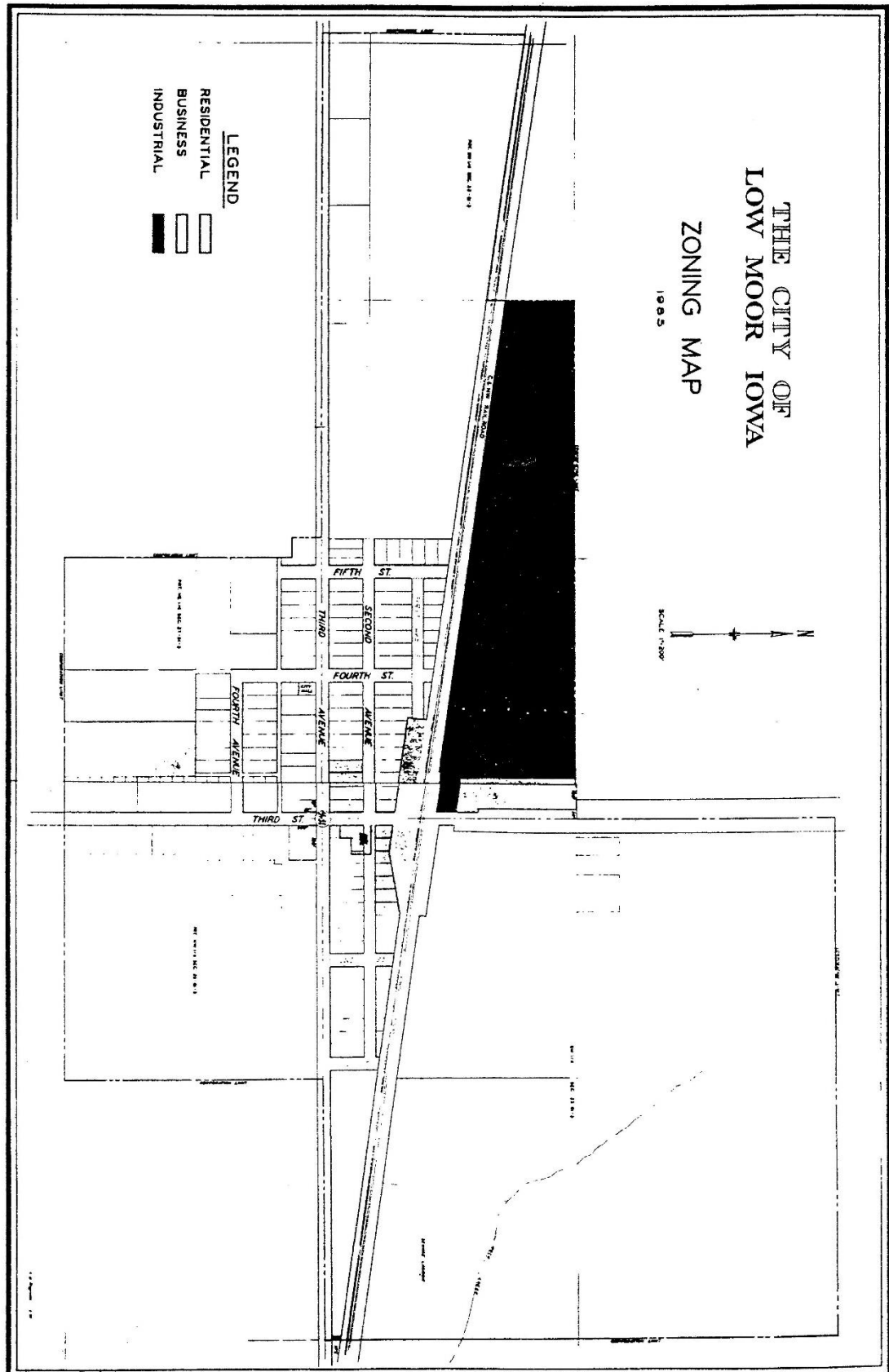
1. No such amendment, supplement or change shall be adopted until after a notice thereof is duly published as provided by the law of this State.
2. When a proposed amendment, supplement or change does not originate with the Planning and Zoning Commission the same shall be submitted to said Commission 30 days in advance of date on which action is to be taken, for its recommendation thereon.
3. This requirement shall not act as a stay upon the proposed action by the Council where said Commission fails to submit its recommendation to the Council within 30 days after receiving written notice requesting the same.

**165.19 ENFORCEMENT.** This chapter shall be enforced by the Mayor. No building permit or certificate of occupancy shall be issued by the City Clerk except where the provisions of the chapter have been complied with.

**165.20 VIOLATION.** Anyone violating any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist constitutes a separate offense.

EDITOR'S NOTE			
The Official Zoning Map was adopted in 1985. The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
11.20.020-H-1	August 18, 1992		
94-8	December 5, 1994		
98-A	July 29, 1998		



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## CHAPTER 166

# SUBDIVISION REGULATIONS

166.01 Purpose	166.12 Final Plat Attachments
166.02 Definitions	166.13 Further Action by the Planning and Zoning Commission
166.03 Platting Required	166.14 Further Action by the Council
166.04 Procedure	166.15 General Requirements
166.05 Requirements of Preliminary Plat	166.16 Improvements Required
166.06 Referral of Preliminary Plat	166.17 Completion of Improvements
166.07 Action by the Superintendent of Public Works	166.18 Performance Bond
166.08 Action by the Planning and Zoning Commission	166.19 Variances
166.09 Final Plat	166.20 Changes and Amendments
166.10 Referral of Final Plat	
166.11 Requirements of Final Plat	

**166.01 PURPOSE.** The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City.

**166.02 DEFINITIONS.** For use in this chapter, the following terms or words are defined.

1.       öAlleyö means a public right-of-way, other than a street, ten (10) feet or less in width, affording secondary means of access to abutting property.
2.       öBlockö means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
3.       öBuilding lineö means a line on a plat between which line and public right-of-way no buildings or structures may be erected.
4.       öCul-de-sacö means a minor street having one end open to traffic and terminated by a vehicular turnaround.
5.       öEasementö means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.
6.       öLotö means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.
7.       öMajor streetö means a street of considerable continuity connecting various sections of the City designated as a major street on the official major street plan of the City.
8.       öMinor streetö means a street which is used primarily for access to the abutting properties.
9.       öPerformance bondö means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City, and said surety bond or cash deposit being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.

10.     “Plat” means a map, drawing or chart on which the subdivider’s plan of the subdivision of land is presented and which the subdivider submits for approval and intends, in final form, to record.

11.     “Subdivider” means the person undertaking the subdivision or resubdivision of a tract or parcel of land.

12.     “Subdivision” means the division of land into three or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

**166.03 PLATTING REQUIRED.** Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot or lots, acreage or suburban lots within the City or, pursuant to Section 354.9 of the *Code of Iowa*, within two miles from the corporate limits shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

**166.04 PROCEDURE.** In obtaining final approval of a proposed subdivision by the Planning and Zoning Commission and the Council, the subdivider shall submit a preliminary plat in accordance with the requirements hereinafter set forth and install improvements or provide a performance bond.

**166.05 REQUIREMENTS OF PRELIMINARY PLAT.** The subdivider shall first prepare and file with the Clerk seven copies of a preliminary plat of adequate scale and size showing the following:

1.     Title, scale, north point and date.
2.     Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners.
3.     Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4.     Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5.     Building setback or front yard lines.
6.     Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7.     Present and proposed easements, showing locations, widths, purposes and limitations.
8.     Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9.     Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.

10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.

11. Existing and proposed zoning of the proposed subdivision and adjoining property.

12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

13. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the Council waives this requirement.

**166.06 REFERRAL OF PRELIMINARY PLAT.** The Clerk shall forthwith refer two copies of the preliminary plat to the Superintendent of Public Works and five copies to the Planning and Zoning Commission.

**166.07 ACTION BY THE SUPERINTENDENT OF PUBLIC WORKS.** The Superintendent of Public Works or other competent individual appointed by the Mayor shall carefully examine the preliminary plat as to its compliance with the laws and regulations of the City, the existing street system and good engineering practices, and shall, as soon as possible, submit the findings in duplicate to the Planning and Zoning Commission, together with one copy of the plat received.

**166.08 ACTION BY THE PLANNING AND ZONING COMMISSION.** The Planning and Zoning Commission shall, upon receiving the report of the Superintendent of Public Works, as soon as possible, but not more than 30 days thereafter, consider the report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider and pass upon the preliminary plat as originally submitted or modified. If the Planning and Zoning Commission does not act within 30 days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed an additional 60 days. The Planning and Zoning Commission shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the Planning and Zoning Commission or disapproval of the plat, the Planning and Zoning Commission shall give its reasons therefor and may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the Planning and Zoning Commission shall express its approval as "conditional approval" and state the conditions of such approval, if any.

3. The action of the Planning and Zoning Commission shall be noted on five copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other copies retained by the Commission.

4. The "conditional approval" by the Planning and Zoning Commission shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

**166.09 FINAL PLAT.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved

preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

**166.10 REFERRAL OF FINAL PLAT.** The subdivider shall, within 12 months of the conditional approval of the preliminary plat by the Planning and Zoning Commission, prepare and file seven copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon failure to do so within the time specified, the conditional approval of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Planning and Zoning Commission. Upon receipt of the final plat and other required documents, the Clerk shall transmit five copies of the final plat to the members of the Planning and Zoning Commission for their recommendations and approval.

**166.11 REQUIREMENTS OF THE FINAL PLAT.** The final plat shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch with India ink on a reproducible tracing linen. It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., County or other official benchmarks.
5. The plat should be signed and acknowledged by the subdivision land owner and his or her spouse.
6. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

**166.12 FINAL PLAT ATTACHMENTS.** The final plat shall have the following attached to it:

20. A correct description of the subdivision land.
21. 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.
22. 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.



23. 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.
24. 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*.
25. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
26. A certificate of dedication of streets and other public property.
27. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
28. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a 50 foot horizontal scale and a five foot vertical scale with west or south at the left.
29. A certificate by the Superintendent of Public Works or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.
30. The encumbrance bond, if any.

**166.13 FURTHER ACTION BY THE PLANNING AND ZONING COMMISSION.**

The Planning and Zoning Commission shall, upon receiving the final plat, as soon as possible, but not more than 30 days thereafter, consider the final plat, and, if the same is approved, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Planning and Zoning Commission.

**166.14 FURTHER ACTION BY THE COUNCIL.** Upon receipt of the certification by the Planning and Zoning Commission, the Council shall, within a reasonable time, either approve or disapprove the final plat.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall further point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

**166.15 GENERAL REQUIREMENTS.** The following general requirements shall be followed by all subdividers:

1. Relation to Existing Streets.
  - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  - B. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plan for the neighborhood approved by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.
2. Acreage Subdivisions.
  - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
  - B. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
  - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Minor Streets.
  - A. Minor streets shall be so planned as to discourage through traffic.
  - B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than 500 feet and shall terminate with a turnaround, having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The right-of-way width of the straight portion of such streets shall be a minimum of 50 feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than 20 feet.
4. Frontage Streets.
  - A. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning and Zoning Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
  - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning and Zoning Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as

for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5. Half Streets. Half streets are prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
6. Street Geometrics.
  - A. Street jogs with centerline offsets of less than 125 feet shall be avoided.
  - B. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
  - C. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the Planning and Zoning Commission shall determine for special cases.
  - D. Street right-of-way widths shall be as shown in the City's master plan.
7. Intersections.
  - A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
  - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.
  - C. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the Planning and Zoning Commission may deem it necessary. The Planning and Zoning Commission may permit comparable cutoffs or chords in place of rounded corners.
8. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Planning and Zoning Commission.
9. Street Grades.
  - A. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves.
  - B. No street grade shall be less than one-half of one percent.
10. Alleys.
  - A. Alleys shall be provided in commercial and industrial districts, except that the Planning and Zoning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-

street loading, unloading and parking consistent with and adequate for the uses proposed.

B. The width of an alley shall be 20 feet.

C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Planning and Zoning Commission.

11. Blocks.

A. No block may be more than 1,320 feet or less than 500 feet in length between the centerlines of intersecting streets, except where, in the opinion of the Planning and Zoning Commission, extraordinary conditions unquestionably justify a departure from these limits.

B. In blocks over 700 feet in length, the Planning and Zoning Commission may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

A. The lot size, width, depth, shape and orientations shall be appropriate for the location of the subdivision, for the type of development and use contemplated.

B. Minimum lot dimensions and sizes shall conform to the requirements of Chapter 165 of this Code of Ordinances, provided:

(1) Residential lots where not served by public sewer shall not be less than 80 feet wide or less than 10,000 square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.

C. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Planning and Zoning Commission may require building lines in accordance with the needs of each subdivision.

14. Easements.

A. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least 10 feet wide.

B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.

15. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the Superintendent of Public Works. The markers shall be of such material, size and length as may be approved by the Superintendent of Public Works.

**166.16 IMPROVEMENTS REQUIRED.** The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the Superintendent of Public Works.

2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the Planning and Zoning Commission and the Council may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Superintendent of Public Works.

4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Superintendent of Public Works.

5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the Water Department standards, procedure and supervision.

6. Sewers.

A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the Superintendent of Public Works.

- B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health, must be provided for the adequate disposal of sanitary wastes.
- C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the Superintendent of Public Works.

**166.17 COMPLETION OF IMPROVEMENTS.** Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the Superintendent of Public Works shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

**166.18 PERFORMANCE BOND.** The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one year from final acceptance of the plat; but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

**166.19 VARIANCES.** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements and in no instance shall it be in conflict with any requirement of Chapter 165 of this Code of Ordinances, and such variances and waivers may be granted only by the affirmative vote of three-fourths of the members of the Council.

**166.20 CHANGES AND AMENDMENTS.** Any regulations or provisions of this chapter may be changed and amended from time to time by the Council, provided however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four or more than 20 days before the date of the hearing.

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# APPENDIX TO CODE OF ORDINANCES

## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

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The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

## **RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances, and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

## **SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

## **DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

## **AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

## **ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:



ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LOW MOOR, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of Low Moor, Iowa:

**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Low Moor, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

**69.16 PARKING LIMITED TO THIRTY MINUTES.** It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

**DELETION OF EXISTING PROVISIONS**

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

**ORDINANCE NO. \_\_\_\_****AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LOW MOOR, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD**

**BE IT ENACTED** by the City Council of the City of Low Moor, Iowa:

**SECTION 1. SUBSECTION REPEALED.** The Code of Ordinances of the City of Low Moor, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No.\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LOW MOOR, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Low Moor, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Low Moor, Iowa, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars (\$10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

**ORDINANCES NOT CONTAINED IN THE  
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks. (2) vacating streets or alleys. (3) authorizing the issuance of bonds. and (4) amending the zoning map.

*(Code of Iowa, Sec. 380.8)*

**ORDINANCE NO. \_\_\_\_****AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO  
(2) RAILROAD ADDITION TO LOW MOOR, IOWA**

Be It Enacted by the City Council of the City of Low Moor, Iowa:

**SECTION 1.** The alley lying in Block Two (2), Railroad Addition to Low Moor, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

**SUGGESTED FORMS**

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**FIRST NOTICE – DANGEROUS BUILDING**

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Low Moor, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**NOTICE OF HEARING ON DANGEROUS BUILDING**

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Low Moor, Iowa, will meet on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as \_\_\_\_\_, constitutes a nuisance pursuant to Chapter \_\_\_\_\_ of the Code of Ordinances of Low Moor, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of Low Moor, Iowa

By: \_\_\_\_\_  
(enforcement officer)

RESOLUTION AND ORDER  
REGARDING DANGEROUS BUILDING

BE IT RESOLVED, by the City Council of the City of Low Moor, Iowa:

WHEREAS, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on (property owner's name), through (agent's name or none), agent, to abate the nuisance existing at (legal description and address) within \_\_\_\_ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within \_\_\_\_ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by \_\_\_\_\_ to adopt.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**Note:** It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

**NOTICE TO ABATE NUISANCE**

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Low Moor, Iowa

By: \_\_\_\_\_  
(designate officer initiating notice)



## REQUIRED SEWER CONNECTION

**NOTICE OF HEARING****REQUIRED SEWER CONNECTION**

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that the City Council of Low Moor, Iowa, will meet on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

**Description of Property**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_

City of Low Moor, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

**RESOLUTION AND ORDER**  
**REQUIRED SEWER CONNECTION**

**BE IT RESOLVED**, by the City Council of the City of Low Moor, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on  
\_\_\_\_\_  
(Name of Property Owner)  
through \_\_\_\_\_, Agent,  
(Agent's Name or "None")

to make connection of the property described as  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to the public sanitary sewer located \_\_\_\_\_  
within \_\_\_\_\_ (\_\_\_\_\_) days from service of notice upon said owner or agent. and

(EITHER)

**WHEREAS**, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

**WHEREAS**, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

**NOW, THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner's agent, \_\_\_\_\_  
(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within \_\_\_\_\_ days after the service of this ORDER upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

**BE IT FURTHER RESOLVED**, that in the event the owner, or agent,

\_\_\_\_\_,  
(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

\_\_\_\_\_  
(Owner's Name)

\_\_\_\_\_, as provided by law.  
(Address)

Moved by \_\_\_\_\_ to adopt.

Seconded by \_\_\_\_\_.

AYES: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

NAYS: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

Resolution approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

