**Code of Ordinances**

**of the**

**CITY OF**

**MARCUS, Iowa**

**Prepared By: Local Government Professional Services, Inc.**

**DBA Iowa Codification**

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**CODE OF ORDINANCES  
OF THE  
CITY OF MARCUS, IOWA**

***Adopted July 10, 2023, by Ordinance No*. *358***

**SUPPLEMENT RECORD**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUPPLEMENT** | | **ORDINANCES AMENDING CODE** | | |
| **Supp. No.** | **Repeals, Amends or Adds** | **Ord. No.** | **Date** | **Subject** |
| Nov-23 | Ch. 126 | 359 | 11-13-23 | Mobile Food Units |
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**CODE OF ORDINANCES**

**CITY OF MARCUS, IOWA**

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CHAPTER 1

CODE OF ORDINANCES

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

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the city of Marcus, Iowa.
3. “Clerk” means the city clerk-treasurer of Marcus, Iowa.
4. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of Marcus, Iowa.
6. “Council” means the city council of Marcus, Iowa.
7. “County” means Cherokee County, Iowa.
8. “IAC” means the Iowa Administrative Code.
9. “May” confers a power.
10. “Measure” means an ordinance, amendment, resolution, or motion.
11. “Must” states a requirement.
12. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
13. “Ordinances” means the ordinances of the City of Marcus, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
14. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
15. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
16. “Shall” imposes a duty.
17. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
18. “State” means the State of Iowa.
19. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.
20. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

1.14 STANDARD PENALTY.  Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least $105.00 but not to exceed $855.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.[[1]](#footnote-1)†

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

1.15 RIGHT OF ENTRY.  Whenever it is necessary to make an inspection, to conduct a survey to enforce any ordinance or wherever there is reasonable cause to believe that there exists an ordinance violation or a need to determine if there is any such violation in any residential dwelling or building within the corporate limits of the City, that any authorized City official, employee, or authorized contractors may, upon presentation of proper credentials, enter upon such residence or building at all reasonable times to inspect the premises, conduct sump pump surveys, or perform any other duty imposed upon such official by the ordinances of this City.

1.16 PRIOR NOTICE.  Except in the case of emergency situations, the City shall give the owner or occupant, if they can be located after reasonable effort, at least 24-hour notice of the time and date of which the designated City employee or representative shall conduct the inspection or survey of the premises.

1.17 NON-COMPLIANCE.  In the event the owner or occupant refuses to allow the entry to their premises the City is authorized to and empowered to seek appropriate court order from the Iowa District Court having jurisdiction in the manner to obtain the right to enter the premises.

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CHAPTER 2

CHARTER

|  |  |
| --- | --- |
| 2.01 Title | 2.04 Number and Term of Council |
| 2.02 Form of Government | 2.05 Term of Mayor |
| 2.03 Powers and Duties of City Officers | 2.06 Copies on File |

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

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

(Code of Iowa, Sec. 372.4)

2.03 POWERS AND DUTIES 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 overlapping terms of four years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1[3])

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CHAPTER 3

MUNICIPAL INFRACTIONS

|  |  |
| --- | --- |
| 3.01 Municipal Infraction | 3.04 Civil Citations |
| 3.02 Environmental Violation | 3.05 Alternative Relief |
| 3.03 Penalties | 3.06 Alternative Penalties |

3.01 MUNICIPAL INFRACTION.  A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a municipal infraction punishable by civil penalty as provided herein.[[2]](#footnote-2)†

(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.
2. First offense – not to exceed $750.00
3. Each repeat offense – not to exceed $1,000.00

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

1. Special Civil Penalties.
2. 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.
3. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than $1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

|  |  |
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| 5.01 Oaths | 5.09 Removal of Appointed Officers and Employees |
| 5.02 Bonds | 5.10 Vacancies |
| 5.03 Powers and Duties | 5.11 Gifts |
| 5.04 Books and Records | 5.12 Boards and Commissions |
| 5.05 Transfer to Successor | 5.13 General Duties |
| 5.06 Meetings | 5.14 Books and Records |
| 5.07 Conflict of Interest | 5.15 Deposits of Municipal Funds |
| 5.08 Resignations | 5.16 Transfer of Records and Property to Successor |

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

1. 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:
2. Mayor
3. City Clerk
4. 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)

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

(Code of Iowa, Sec. 64.19)

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

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

1. 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[1a] and [3])

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

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

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

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

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to 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)

1. 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)

1. 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)

1. 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)

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

(Code of Iowa, Sec. 21.7)

1. 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])

1. 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])

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

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

1. 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])

1. Newspaper. The designation of an official newspaper.

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

1. 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])

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

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

1. 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])

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

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

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

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

1. 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[3k])

1. 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[3l])

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)

5.12 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this chapter or the *Code of Iowa*. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council or as specified in the *Code of Iowa*.
2. Removal of Members of Boards and Commissions. The Council may remove any member of any board or commission, which it has established.
3. Gender Balance. Boards and commissions shall be gender balanced in accordance with Section 69.16A of the *Code of Iowa*.

5.13 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the Council unless contrary to State law or City charter.

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

5.14 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to inspection by the public upon request, except records required to be confidential by State or federal law.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

5.15 DEPOSITS OF MUNICIPAL FUNDS. Each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the Clerk, together with receipts indicating the sources of the funds.

5.16 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official’s successor in office all books, papers, records, documents, and property together with an invoice of the same, in the official’s custody and appertaining to the official’s office.

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CHAPTER 6

CITY ELECTIONS

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| 6.01 Nominating Method to Be Used | 6.04 Preparation of Petition and Affidavit |
| 6.02 Nominations by Petition | 6.05 Filing; Presumption; Withdrawals; Objections |
| 6.03 Adding Name by Petition | 6.06 Persons Elected |

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

|  |  |
| --- | --- |
| 7.01 Purpose | 7.05 Operating Budget Preparation |
| 7.02 Finance Officer | 7.06 Budget Amendments |
| 7.03 Cash Control | 7.07 Accounting |
| 7.04 Fund Control | 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)

1. Petty Cash and Change Fund. The finance officer shall be custodian of a petty cash and change 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. Such fund shall also be used for the purpose of making change without comingling other funds to meet the requirements of the office. At such time as the fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

(545 IAC 2.5[2])

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

(545 IAC 2.5[3])

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

(545 IAC 2.5[4])

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

(545 IAC 2.5[5])

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.
4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City’s trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City’s emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

1. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.
2. If the City has an internet site, the notice shall also be posted and clearly identified on the City’s internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

(1) The sum of the current fiscal year’s actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year’s combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(2) The effective tax rate calculated using the sum of the current fiscal year’s actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year’s actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection.

1. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.
2. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year’s actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.
3. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City’s internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.
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. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Clerk and Mayor or Mayor Pro Tem 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)

CHAPTER 11

URBAN REVITALIZATION

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| **EDITOR’S NOTE** | | |
| The following ordinances and resolutions not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect. | | |
| **ORDINANCE OR RESOLUTION NO.** | **ADOPTED** | **NAME OF AREA** |
| 2017-21 | November 13, 2017 | Marcus Urban Revitalization Plan and District |
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CHAPTER 15

MAYOR

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| 15.01 Term of Office | 15.04 Compensation |
| 15.02 Powers and Duties | 15.05 Voting |
| 15.03 Appointments |  |

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])

1. 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])

1. 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])

1. Mayor’s Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

1. 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.
2. 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.
3. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
4. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with this Code of Ordinances and the laws of the State.
5. 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.
6. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
7. 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 Mayor Pro Tem:

(Code of Iowa, Sec. 372.4)

1. The following appointments shall be made by the Mayor with Council approval:
2. Police Chief
3. Library Board
4. Board of Adjustment

15.04 COMPENSATION. The salary of the Mayor is $4,000.00 per year, paid in equal monthly 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)

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CHAPTER 16

MAYOR PRO TEM

|  |  |
| --- | --- |
| 16.01 Vice President of Council | 16.03 Voting Rights |
| 16.02 Powers and Duties | 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

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| 17.01 Number and Term of Council | 17.04 Council Meetings |
| 17.02 Powers and Duties | 17.05 Appointments |
| 17.03 Exercise of Power | 17.06 Compensation |

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

1. 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])

1. 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)

1. 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])

1. Measures Become Effective. Measures passed by the Council become effective in one of the following ways:
2. 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])

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

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

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

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

1. 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])

1. 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 regular meetings of the Council are on the second Monday of each month at 5:00 p.m. in the Council Chambers at City Hall. If such a day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. Zoning Administrator

17.06 COMPENSATION. The salary of each Council member is $30.00 for each meeting of the Council but in no event shall any Council member be paid more than $1,500.00 in any one year.

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

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CHAPTER 18

CITY CLERK

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| 18.01 Appointment and Compensation | 18.08 Records |
| 18.02 Powers and Duties: General | 18.09 Attendance at Meetings |
| 18.03 Publication of Minutes | 18.10 Licenses and Permits |
| 18.04 Recording Measures | 18.11 Notification of Appointments |
| 18.05 Other Publications | 18.12 Elections |
| 18.06 Authentication | 18.13 City Seal |
| 18.07 Certification |  |

18.01 APPOINTMENT AND COMPENSATION. At its first meeting in January following the regular City election, the Council shall appoint by majority vote a 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 and 2])

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

(Code of Iowa, Sec. 362.3)

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

1. 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])

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

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| 19.01 Appointment | 19.03 Duties of Treasurer |
| 19.02 Compensation |  |

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

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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| 20.01 Appointment and Compensation | 20.06 Provide Legal Opinion |
| 20.02 Attorney for City | 20.07 Attendance at Council Meetings |
| 20.03 Power of Attorney | 20.08 Prepare Documents |
| 20.04 Ordinance Preparation | 20.09 Representation of City Employees |
| 20.05 Review and Comment |  |

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for a term of two years. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 670.8)

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of seven resident trustees. All members are to be appointed by the Mayor with the approval of the Council.

22.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of 18 years.

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

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control, and supervision of the Library, its appurtenances, fixtures, and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the Library Director, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Library Director to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government, and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises, and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises, and bequests accepted by the City by action against the Council.
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 and 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 23

PLANNING AND ZONING COMMISSION

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| 23.01 Planning and Zoning Commission | 23.04 Compensation |
| 23.02 Term of Office | 23.05 Powers and Duties |
| 23.03 Vacancies |  |

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

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

23.04 COMPENSATION. All members of the Commission shall serve with compensation of $25.00 per meeting, subject to the approval of the Council.

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

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

(Code of Iowa, Sec. 392.1)

1. 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)

1. 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)

1. 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)

1. 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)

1. 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)

1. 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)

1. 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)

1. Minimum Required. The Commission shall not carry out its business without having at least three members present.

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CHAPTER 24

BOARD OF ADJUSTMENT

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| 24.01 Board of Adjustment | 24.04 Compensation |
| 24.02 Term of Office | 24.05 Powers and Duties |
| 24.03 Vacancies | 24.06 Appropriations |

24.01 BOARD OF ADJUSTMENT. A City Board of Adjustment consisting of five members who shall be citizens of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the municipal government, shall be subject to the approval of the Council.

24.02 TERM OF OFFICE. The term of office of the members of the Board shall be five years, except that of the five members constituting the Board those first named shall hold office in the following manner; one for two years, one for three years, one for four years, and two for five years.

24.03 VACANCIES. If any vacancy shall exist on the Board caused by resignation, or otherwise, the Mayor shall appoint a successor for the remainder of the term, subject to the approval of the Council, which shall be subject to the approval of the Council.

24.04 COMPENSATION. All members of the Board shall receive $25.00 per meeting, and the Zoning Administrator shall receive $35.00 per meeting. Any expenses occurred by a member shall be subject to the approval of the Council.

24.05 POWERS AND DUTIES.

1. The Board shall adopt such rules and regulations governing its organization and procedure, as it may deem necessary.
2. The Board shall each year make a report to the Mayor and the Council of its proceedings, with a full statement of its receipts, disbursements, and the progress of its work during the preceding fiscal year.
3. Subject to the limitations contained in this chapter as to the expenditures for funds, it may appoint such assistants, as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.
4. It shall have full power and authority to make or to cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the municipality or of any land outside thereof which, in the opinion of the Board, bears relations to the Comprehensive Plan and shall bring it to the attention of the Council and may publish its studies and recommendations.
5. No statutory, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structures, or appurtenances, shall be located or erected, or site therefore obtained, nor shall any permit be issued by any department of the municipal government for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Board and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvements when such Board after, 30 days’ written notice requesting such recommendations, shall have failed to file same.
6. All plans, plats, replats, subdivisions, or resubdivisons of land embraced in the municipality 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 such municipality, shall first be submitted to the Board and its recommendations obtained before approval by the Council.
7. No plan for any street, park, parkway, boulevard, traffic way, river front, or other public improvement affecting the City plan shall be finally approved by the municipality or the character or location thereof determined, unless such proposal shall first be submitted to the Board and the latter shall have had 30 days within which to file its recommendations thereon.
8. The Board shall have full, complete, and exclusive authority to expend for and on behalf of the City all sums of money appropriated as hereinafter provided, and to use and expend all gifts, donations, or payments whatsoever which are received by the City for City planning purposes.
9. The Board shall have no power to contract debts beyond the amount of its income for the present year.
10. For the purpose of making a Comprehensive Plan for the physical development of the municipality, the Board shall make careful and comprehensive studies to present conditions and future growth of the municipality and with due regard to its relations to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs, which will, in accordance with the present future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in process of development.
11. Before adopting a Comprehensive Plan, or any part of it, or any substantial amendment thereof, the Board shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the City not less than 10 or more than 20 days before the date of hearing. The adoption of the plan or part or amendment thereof shall be by resolution of the Board carried by the affirmative vote of not less than two-thirds of the members of the Board. After adoption of the plan by the Board, an attested copy thereof shall be certified to the Council and the Council may approve the same, and when the plan or any modification or amendment thereof shall receive the approval of the Council, the plan until subsequently modified or amended as hereinafter authorized shall constitute the official City plan.

24.06 APPROPRIATIONS. The Council may annually appropriate a sum of money from the general fund for the payment of the expenses of the Board.

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CHAPTER 30

POLICE DEPARTMENT

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| 30.01 Department Established | 30.07 Powers and Duties of Police Chief |
| 30.02 Organization | 30.08 Departmental Rules |
| 30.03 Peace Officer Qualifications | 30.09 Summoning Aid |
| 30.04 Required Training | 30.10 Taking Weapons |
| 30.05 Compensation | 30.11 Contract Law Enforcement |
| 30.06 Police Chief Appointed |  |

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

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

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

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

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

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

(501 IAC 3 and 8)

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

30.06 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.

(Code of Iowa, Sec. 372.4)

30.07 POWERS AND DUTIES OF POLICE CHIEF. The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

1. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
2. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.
3. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
4. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest, and the disposition of the charge.
5. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
6. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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

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

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CHAPTER 35

FIRE DEPARTMENT

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| 35.01 Establishment and Purpose | 35.08 Obedience to Fire Chief |
| 35.02 Organization | 35.09 Constitution |
| 35.03 Approved by Council | 35.10 Accidental Injury Insurance |
| 35.04 Training | 35.11 Liability Insurance |
| 35.05 Compensation | 35.12 Calls Outside Fire District |
| 35.06 Election of Officers | 35.13 Mutual Aid |
| 35.07 Duties of Fire Chief | 35.14 Authority to Cite Violations |

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin, and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.
3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department’s duties.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

1. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the Fire Department. The members of the Fire Department shall, at all times, be subject to the direction of the Fire Chief.
2. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the Fire Department.
3. Notification. Whenever death, serious bodily injury, or property damage in excess of $200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal’s Division immediately. For all other fires causing an estimated damage of $50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal’s Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 and 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

1. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing, and reporting data pertaining to fires.
2. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause, and location, and an analysis of losses by value, type, and location of buildings.
3. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

|  |  |
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| 36.01 Purpose | 36.05 Notifications |
| 36.02 Definitions | 36.06 Police Authority |
| 36.03 Cleanup Required | 36.07 Liability |
| 36.04 Liability for Cleanup Costs |  |

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

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

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

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

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

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

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

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

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

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

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

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

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

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

|  |  |
| --- | --- |
| 40.01 Assault | 40.03 Disorderly Conduct |
| 40.02 Harassment | 40.04 Failure to Disperse |

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT.  No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:
2. 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)

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

(Code of Iowa, Sec. 708.7)

1. 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)

1. 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)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. “Deface” means to intentionally mar the external appearance.
2. “Defile” means to intentionally make physically unclean.
3. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
4. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
5. “Show disrespect” means to deface, defile, mutilate, or trample.
6. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
8. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
9. 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.
10. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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| 41.01 Distributing Dangerous Substances | 41.08 Abandoned or Unattended Refrigerators |
| 41.02 False Reports to or Communications with Public | 41.09 Antenna and Radio Wires |
| Safety Entities | 41.10 Barbed Wire and Electric Fences |
| 41.03 Providing False Identification Information | 41.11 Discharging Weapons |
| 41.04 Refusing to Assist Officer | 41.12 Throwing and Shooting |
| 41.05 Harassment of Public Officers and Employees | 41.13 Urinating and Defecating |
| 41.06 Interference with Official Acts | 41.14 Fireworks |
| 41.07 Removal of an Officer’s Communication or | 41.15 Drug Paraphernalia |
| Control Device | 41.16 Failure to Assist |

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
2. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:

(1) First-class consumer fireworks:

a. Aerial shell kits and reloadable tubes;

b. Chasers;

c. Helicopters and aerial spinners;

d. Firecrackers;

e. Mine and shell devices;

f. Missile-type rockets;

g. Roman candles;

h. Sky rockets and bottle rockets;

i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.

(2) Second-class consumer fireworks:

a. Cone fountains;

b. Cylindrical fountains;

c. Flitter sparklers;

d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;

e. Ground spinners;

f. Illuminating torches;

g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;

h. Wheels;

i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

1. “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.
2. “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.
3. 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:
4. Personal Injury: $250,000.00 per person
5. Property Damage: $50,000.00
6. Total Exposure: $1,000,000.00
7. Consumer Fireworks.
8. 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.
9. 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.

1. 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.
2. Novelties. This section does not apply to novelties.

41.15 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:
2. Manufacture a controlled substance.
3. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
4. Test the strength, effectiveness, or purity of a controlled substance.
5. 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.

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

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

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

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| 42.01 Trespassing | 42.05 Fraud |
| 42.02 Criminal Mischief | 42.06 Theft |
| 42.03 Defacing Proclamations or Notices | 42.07 Other Public Property Offenses |
| 42.04 Unauthorized Entry |  |

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

1. Definitions. For purposes of this section:

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

1. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.
2. “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*.
3. “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.
4. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.
5. “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.
6. “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.

1. Specific Exceptions. “Trespass” does not mean either of the following:

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

1. 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.
2. Entering upon the right-of-way of a public road or highway.

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 22 – Library
2. Section 22.10 – Injury to Books or Property
3. Section 22.11 – Theft of Library Property
4. Chapter 105 – Solid Waste Control and Recycling
5. Section 105.07 – Littering Prohibited
6. Chapter 135 – Street Use and Maintenance
7. Section 135.01 – Removal of Warning Devices
8. Section 135.02 – Obstructing or Defacing
9. Section 135.03 – Placing Debris On
10. Section 135.04 – Playing In
11. Section 135.05 – Traveling on Barricaded Street or Alley
12. Section 135.08 – Burning Prohibited
13. Section 135.12 – Dumping of Snow
14. Chapter 136 – Sidewalk Regulations
15. Section 136.12 – Interference with Sidewalk Improvements
16. Section 136.16 – Fires or Fuel on Sidewalks
17. Section 136.17 – Defacing
18. Section 136.18 – Debris on Sidewalks
19. Section 136.19 – Merchandise Display
20. Section 136.20 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

|  |  |
| --- | --- |
| 45.01 Persons Under Legal Age | 45.03 Open Containers in Motor Vehicles |
| 45.02 Public Consumption or Intoxication | 45.04 Social Host |

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
2. “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*.
3. “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.
4. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
5. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.
6. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a retail alcohol license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.
7. A person shall not simulate intoxication in a public place.
8. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

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

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

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

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| 46.01 Curfew | 46.03 Contributing to Delinquency |
| 46.02 Cigarettes and Tobacco |  |

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:
2. “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.
3. “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.
4. “Minor” means any unemancipated person under the age of 18 years.
5. “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.
6. “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.
7. “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.
8. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets, or public places or to be in places of business and amusement in the City between the hours of 12:01 a.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday, and Thursday and between the hours of 12:01 a.m. and 5:00 a.m. on Friday and Saturday.
9. Exceptions. The following are exceptions to the curfew:
10. The minor is accompanied by a responsible adult.
11. 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.
12. 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.

1. The minor is on an emergency errand for a responsible adult;
2. The minor is engaged in interstate travel through the City beginning, ending, or passing through the City when such travel is by direct route.
3. 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.
4. Enforcement Procedures.
5. 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.
6. 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.
7. 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.
8. 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.
9. Penalties.
10. 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.
11. 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.
12. 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.
13. Minor’s Second Violation. For the minor’s second and subsequent violations of any of the provisions of this section, the minor is guilty of a municipal infraction.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person’s employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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CHAPTER 47

PARK REGULATIONS

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| 47.01 Purpose | 47.04 Littering |
| 47.02 Use of Drives Required | 47.05 Parks Closed |
| 47.03 Fires | 47.06 Camping |

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED.

1. It is unlawful to remain upon the grounds of any City park, or any part thereof, except between the hours of 12:30 a.m. to 6:00 a.m.
2. The City park hours of operation may be altered only for City events, which have been officially sanctioned by the Council.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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| 50.01 Definition of Nuisance | 50.05 Nuisance Abatement |
| 50.02 Nuisances Enumerated | 50.06 Abatement of Nuisance by Written Notice |
| 50.03 Other Conditions | 50.07 Municipal Infraction Abatement Procedure |
| 50.04 Nuisances Prohibited |  |

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. **(See also Chapter 151)**
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 OTHER CONDITIONS. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions that are deemed to be nuisances:

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Storage and Disposal of Solid Waste **(See Chapter 105)**
3. Dangerous Buildings **(See Chapter 145)**
4. Trees **(See Chapter 151)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [[3]](#footnote-3)†
2. Description of Nuisance. A description of what constitutes the nuisance.
3. Location of Nuisance. The location of the nuisance.
4. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
5. Reasonable Time. A reasonable time within which to complete the abatement.
6. 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.
7. 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])

1. 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.
2. 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 Subsections 1 and 2, and the hearing as provided in Subsection 3.

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

1. 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])

1. 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])

1. 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)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

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| 51.01 Definitions | 51.04 Exceptions |
| 51.02 Junk and Junk Vehicles Prohibited | 51.05 Notice to Abate |
| 51.03 Junk and Junk Vehicles a Nuisance |  |

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery, and appliances or parts of such vehicles, machinery, or appliances; iron, steel, or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:
3. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
4. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel, or trunk lid.
5. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
6. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
7. 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.
8. 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.

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

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

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

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

51.04 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

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| 55.01 Definitions | 55.12 Confinement |
| 55.02 Animal Neglect | 55.13 At Large: Impoundment |
| 55.03 Livestock Neglect | 55.14 Disposition of Animals |
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| 55.06 At Large Prohibited | 55.17 Tampering With A Rabies Vaccination Tag |
| 55.07 Damage or Interference | 55.18 Tampering With An Electronic Handling Device |
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| 55.09 Vicious Dogs | 55.20 Pet Waste |
| 55.10 Rabies Vaccination | 55.21 Animal Nuisances |
| 55.11 Owner’s Duty |  |

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

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

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

1. “Animal” means a nonhuman vertebrate.

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

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

(Code of Iowa, Sec. 162.2)

1. “At large” means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel. A properly licensed animal shall not be deemed at large if:
2. It is on the premises of the owner, with the owner visibly outside monitoring the animal and able to restrain the animal.
3. It is on the premises of another person with the prior knowledge and consent of that person, and that person is outside, monitoring the animal and able to restrain the animal.
4. It is under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle or enclosed within a structure.
5. “Business” means any enterprise relating to any of the following:

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

1. The sale or offer for sale of goods or services.
2. A recruitment for employment or membership in an organization.
3. A solicitation to make an investment.
4. An amusement or entertainment activity.
5. “Commercial establishment” means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

(Code of Iowa, Sec. 717.B1)

1. “Fair” means any of the following:

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

1. The Marcus Fair, or any 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*.
2. An exhibition of agricultural or manufactured products.
3. An event for operation of amusement rides or devices or concession booths.
4. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.

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

1. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.

(Code of Iowa, Sec. 717.B1)

1. “Leash” means a rope, line, chain, or similar restraint which is sufficient to hold the animal in check. Length of leash shall be no more than 10 feet.
2. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.

(Code of Iowa, Sec. 717.1)

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

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

1. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

(Code of Iowa, Sec. 162.2)

1. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

(Code of Iowa, Sec. 162.2)

1. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.

(Code of Iowa, Sec. 717.B1)

55.02 ANIMAL NEGLECT.

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

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

1. Access to food in an amount and quality reasonably sufficient to satisfy the animal’s basic nutrition level to the extent that the animal’s health or life is endangered.
2. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal’s basic hydration level to the extent that the animal’s health or life is endangered. Access to snow or ice does not satisfy this requirement.
3. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal’s health or life is endangered.
4. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal’s health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.
5. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.
6. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal’s distress from any of the following:

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

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

1. This section does not apply to any of the following:
2. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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. (**See Chapter 57**)

55.10 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog or cat in said person’s possession, six months of age or over, which has not been vaccinated against rabies. Dogs or cats 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 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

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

(Code of Iowa, Sec. 351.37, 351.41)

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

55.16 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:
2. A prize for participating in a game.
3. A prize for participating in a fair.
4. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
5. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.
6. Exceptions. This section does not apply to any of the following:
7. 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.
8. 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.

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

(Code of Iowa, Sec. 351.45)

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

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

(Code of Iowa, Sec. 351.46)

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

55.19 LIMITATION ON NUMBER OF DOMESTIC ANIMALS.  No household within the corporate limits of the City shall maintain more than three separate or combination of three domestic animals together with litters therefrom up to the age of six months. This section does not apply to kennels or veterinary clinics in agricultural, commercial, or industrial zoning districts.

55.20 PET WASTE.  All pet owners and keepers are required to immediately and properly dispose of their pet’s solid waste deposited on any property, public or private, not owned or possessed by the person. On any property owned or possessed by that person, all pet owners and keepers are required to dispose of their pet’s solid waste at a frequency of at least weekly or more frequently if necessary, to prevent a public health nuisance.

55.21 ANIMAL NUISANCES.  It shall be unlawful for any person to permit an animal under such person’s control or within such person’s custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles, or defecates on private property other than the owner’s or on public walks and recreations areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous, or offensive conditions.
3. The City enforces the limit of dogs per household is two over the age of six months.
4. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

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| --- | --- |
| 57.01 Definitions | 57.03 Keeping of Vicious Animals Prohibited |
| 57.02 Keeping of Dangerous Animals Prohibited | 57.04 Seizure, Impoundment, and Disposition |

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

1. “Dangerous animal” means: [[4]](#footnote-4)†
2. Badgers, wolverines, weasels, skunk and mink.
3. Raccoons.
4. Bats.
5. Scorpions.
6. “Vicious animal” means any of the following:
7. Any animal, except for a dangerous animal as listed above, that has attacked, bitten, or clawed a person while running at large and the attack was unprovoked; or,
8. Any animal, except for a dangerous animal as listed above, that has exhibited vicious tendencies in present or past conduct, including such that said animal:

(1) Has attacked, bitten, or clawed a person causing injury; or,

(2) Has bitten more than one person during the animal’s lifetime; or,

(3) Has bitten one person on two or more occasions during the animal’s lifetime; or,

(4) Has attacked any domestic animal or fowl without provocation, causing injury or death while off the property of the owner.

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

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

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording “Guard Dog,” “Vicious Dog” or words of similar import, and the owner of such premises shall inform the Mayor or peace officer that a guard dog is on duty at said premises.

57.04 SEIZURE, IMPOUNDMENT, AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.
5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor or peace officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed (or of the Council after appeal) constitutes a simple misdemeanor.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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| 60.01 Title | 60.05 Reports of Traffic Accidents |
| 60.02 Definitions | 60.06 Peace Officer’s Authority |
| 60.03 Administration and Enforcement | 60.07 Obedience to Peace Officers |
| 60.04 Power to Direct Traffic | 60.08 Parades Regulated |

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Marcus Traffic Code” (and are referred to herein as the “Traffic Code”).

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are 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. “MPH” means miles per hour.
3. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
4. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
5. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
6. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
7. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
8. “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.
9. “Stop” means when required, the complete cessation of movement.
10. “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.
11. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.
12. “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.
13. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

60.05 REPORTS OF TRAFFIC ACCIDENTS. The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the 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. 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.
2. 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.
3. 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

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| 61.01 Installation | 61.04 Standards |
| 61.02 Crosswalks | 61.05 Compliance |
| 61.03 Traffic Lanes |  |

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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| --- | --- |
| 62.01 Violation of Regulations | 62.05 Quiet Zones |
| 62.02 Play Streets Designated | 62.06 Obstructing View at Intersections |
| 62.03 Vehicles on Sidewalks | **62.07 Engine Brakes and Compression Brakes** |
| 62.04 Clinging to Vehicle |  |

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Limitation on liability; penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed; operation of commercial vehicles.
15. Section 321.174A – Operation of motor vehicle with expired license.
16. Section 321.180 – Instruction permits, commercial learner’s permits, and chauffeur’s instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restrictions on licenses; penalty.
19. Section 321.194 – Special minors’ licenses.
20. Section 321.208A – Operation in violation of out-of-service order; penalties.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card; penalty.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.
24. Section 321.218 – Operating without valid driver’s license or when disqualified; penalties.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – Driver’s license inspection for motor vehicle rental.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles, highway use.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid; leaving scene of personal injury accident.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
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127. Section 321.417 – Single-beam road-lighting equipment.
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138. Section 321.434 – Bicycle sirens or whistles.
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147. Section 321.445 – Safety belts and safety harnesses; use required.
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149. Section 321.449 – Motor carrier safety rules.
150. Section 321.449A – Rail crew transport drivers.
151. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
152. Section 321.450 – Hazardous materials transportation regulations.
153. Section 321.454 – Width of vehicles.
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155. Section 321.456 – Height of vehicles.
156. Section 321.457 – Maximum length.
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160. Section 321.462 – Drawbars and safety chains.
161. Section 321.463 – Maximum gross weight; exceptions, penalties.
162. Section 321.465 – Weighing vehicles and removal of excess.
163. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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CHAPTER 63

SPEED REGULATIONS

|  |  |
| --- | --- |
| 63.01 General | 63.04 Special Speed Zones |
| 63.02 State Code Speed Limits | 63.05 Minimum Speed |
| 63.03 Parks, Cemeteries, and Parking Lots |  |

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Speed limits shall be the following:
2. City park zone 10 MPH
3. School zone 25 MPH
4. Special 35 MPH Speed Zones. A speed in excess of 35 MPH is unlawful on any of the following designated streets or parts thereof:
5. Ames Street from Amherst Street north to Railroad Street.
6. Ames Street from Amherst Street south to Highland Drive.
7. Ames Street from Highland Drive south to State Highway 3.
8. Amherst Street from Linn Street west to City limits.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

|  |  |
| --- | --- |
| 64.01 Turning at Intersections | 64.03 Left Turn for Parking |
| 64.02 U-Turns |  |

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

1. At the intersection of Railroad Street and North Main Street.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

|  |  |
| --- | --- |
| 65.01 Stop Required | 65.05 Stop Before Crossing Sidewalk |
| 65.02 Four-Way Stop Intersections | 65.06 Stop When Traffic Is Obstructed |
| 65.03 Yield Required | 65.07 Yield to Pedestrians in Crosswalks |
| 65.04 School Stops | 65.08 Official Traffic Controls |

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

(Code of Iowa, Sec. 321.345)

1. E Barnes Street. Vehicles traveling west on E Barnes Street shall stop at S Locust Street.
2. E Barnes Street. Vehicles traveling east on E Barnes Street shall stop at S Elm Street.
3. E Cedar Street. Vehicles traveling east on E Cedar Street shall stop at Ames Street/Highway 143.
4. E Fenton Street. Vehicles traveling east on E Fenton Street shall stop at S Ash Street.
5. E Fenton Street. Vehicles traveling east on E Fenton Street shall stop at S Beech Street.
6. E Fenton Street. Vehicles traveling west on E Fenton Street shall stop at S Ash Street.
7. E Fenton Street. Vehicles traveling west on E Fenton Street shall stop at S Beech Street.
8. E Pine Street. Vehicles traveling west on E Pine Street shall stop at N Main Street.
9. E Pine Street. Vehicles traveling west on E Pine Street shall stop at Ames Street/Highway 143.
10. E Railroad Street. Vehicles traveling east on E Railroad Street shall stop at Ames Street/Highway 143.
11. E Railroad Street. Vehicles traveling west on E Railroad Street shall stop at N Main Street.
12. E Section Street. Vehicles traveling west on E Section Street shall stop at Ames Street/Highway 143.
13. E Spruce Street. Vehicles traveling west on E Spruce Street shall stop at N Main Street.
14. Eagle Avenue. Vehicles traveling south on Eagle Avenue shall stop at Highway 3.
15. Eagle Avenue. Vehicles traveling west on Eagle Avenue shall stop at Ames Street/Highway 143.
16. Highland Drive. Vehicles traveling east on Highland Drive shall stop at Ames Street/Highway 143.
17. Highway 143/D Avenue. Vehicles traveling north on Highway 143/D Avenue shall stop at Highway 3.
18. Highway 143/D Avenue. Vehicles traveling south on Highway 143/D Avenue shall stop at Highway 3.
19. Holmes Street. Vehicles traveling east on Holmes Street shall stop at Reagan Street.
20. Holmes Street. Vehicles traveling east on Holmes Street shall stop at S Ames Street/Highway 143.
21. Holmes Street. Vehicles traveling west on Holmes Street shall stop at Reagan Street.
22. N Ash Street. Vehicles traveling north on N Ash Street shall stop at E Cedar Street.
23. N Ash Street. Vehicles traveling north on N Ash Street shall stop at E Pine Street.
24. N Ash Street. Vehicles traveling north on N Ash Street shall stop at E Railroad Street.
25. N Ash Street. Vehicles traveling south on N Ash Street shall stop at E Amherst Street.
26. N Ash Street. Vehicles traveling south on N Ash Street shall stop at E Cedar Street.
27. N Ash Street. Vehicles traveling south on N Ash Street shall stop at E Pine Street.
28. N Beech Street. Vehicles traveling north on N Beech Street shall stop at E Cedar Street.
29. N Beech Street. Vehicles traveling north on N Beech Street shall stop at E Railroad Street.
30. N Beech Street. Vehicles traveling south on N Beech Street shall stop at E Cedar Street.
31. N Beech Street. Vehicles traveling south on N Beech Street shall stop at E Amherst Street.
32. N Elm Street. Vehicles traveling north on N Elm Street shall stop at E Pine Street.
33. N Elm Street. Vehicles traveling north on N Elm Street shall stop at E Railroad Street.
34. N Elm Street. Vehicles traveling north on N Elm Street shall stop at E Cedar Street.
35. N Elm Street. Vehicles traveling south on N Elm Street shall stop at E Pine Street.
36. N Elm Street. Vehicles traveling south on N Elm Street shall stop at E Amherst Street.
37. N Elm Street. Vehicles traveling south on N Elm Street shall stop at E Cedar Street.
38. N Linn Street. Vehicles traveling north on N Linn Street shall stop at W Cedar Street.
39. N Linn Street. Vehicles traveling south on N Linn Street shall stop at W Amherst Street.
40. N Linn Street. Vehicles traveling south on N Linn Street shall stop at W Cedar Street.
41. N Locust Street. Vehicles traveling north on N Locust Street shall stop at E Cedar Street.
42. N Locust Street. Vehicles traveling north on N Locust Street shall stop at E Pine Street.
43. N Locust Street. Vehicles traveling north on N Locust Street shall stop at E Railroad Street.
44. N Locust Street. Vehicles traveling south on N Locust Street shall stop at E Cedar Street.
45. N Locust Street. Vehicles traveling south on N Locust Street shall stop at E Pine Street.
46. N Locust Street. Vehicles traveling south on N Locust Street shall stop at E Amherst Street.
47. N Maple Street. Vehicles traveling north on N Maple Street shall stop at W Cedar Street.
48. N Maple Street. Vehicles traveling south on N Maple Street shall stop at W Cedar Street.
49. N Oak Street. Vehicles traveling north on N Oak Street shall stop at E Cedar Street.
50. N Oak Street. Vehicles traveling north on N Oak Street shall stop at E Railroad Street.
51. N Oak Street. Vehicles traveling south on N Oak Street shall stop at E Cedar Street.
52. N Oak Street. Vehicles traveling south on N Oak Street shall stop at E Pine Street.
53. N Oak Street. Vehicles traveling south on N Oak Street shall stop at E Amherst Street.
54. N Oak Street. Vehicles traveling north on N Oak Street shall stop at E Pine Street.
55. N Radcliff Avenue. Vehicles traveling north on N Radcliff Avenue shall stop at E Cedar Street.
56. N Radcliff Avenue. Vehicles traveling north on N Radcliff Avenue shall stop at E Pine Street.
57. N Radcliff Avenue. Vehicles traveling south on N Radcliff Avenue shall stop at E Cedar Street.
58. N Radcliff Avenue. Vehicles traveling south on N Radcliff Avenue shall stop at E Pine Street.
59. N Shamrock Road. Vehicles traveling north on N Shamrock Road shall stop at E Pine Street.
60. N Shamrock Road. Vehicles traveling south on N Shamrock Road shall stop at E Cedar Street.
61. N Shamrock Road. Vehicles traveling south on N Shamrock Road shall stop at E Pine Street.
62. N Shamrock Road. Vehicles traveling south on N Shamrock Road shall stop at E Section Street.
63. N Walnut Street. Vehicles traveling north on N Walnut Street shall stop at W Cedar Street.
64. N Walnut Street. Vehicles traveling north on N Walnut Street shall stop at W Railroad Street.
65. N Walnut Street. Vehicles traveling south on N Walnut Street shall stop at W Cedar Street.
66. Park Street. Vehicles traveling east on Park Street shall stop at S Locust Street.
67. Reagan Street. Vehicles traveling south on Reagan Street shall stop at Holmes Street.
68. Ridgeway Drive. Vehicles traveling north on Ridgeway Drive shall stop at E Fenton Street.
69. S Ash Street. Vehicles traveling north on S Ash Street shall stop at E Amherst Street.
70. S Ash Street. Vehicles traveling south on S Ash Street shall stop at E Fenton Street.
71. S Beech Street. Vehicles traveling north on S Beech Street shall stop at E Amherst Street.
72. S Beech Street. Vehicles traveling south on S Beech Street shall stop at E Fenton Street.
73. S Elm Street. Vehicles traveling north on S Elm Street shall stop at E Amherst Street.
74. S Elm Street. Vehicles traveling north on S Elm Street shall stop at E Barnes Street.
75. S Elm Street. Vehicles traveling south on S Elm Street shall stop at E Barnes Street.
76. S Elm Street. Vehicles traveling south on S Elm Street shall stop at Highland Drive.
77. S Locust Street. Vehicles traveling north on S Locust Street shall stop at E Amherst Street.
78. S Locust Street. Vehicles traveling south on S Locust Street shall stop at W Fenton Street.
79. S Maple Street. Vehicles traveling north on S Maple Street shall stop at W Amherst Street.
80. S Oak Street. Vehicles traveling north on S Oak Street shall stop at E Amherst Street.
81. S Walnut Street. Vehicles traveling north on S Walnut Street shall stop at W Amherst Street.
82. W Amherst Street. Vehicles traveling east on W Amherst Street shall stop at C Avenue.
83. W Fenton Street. Vehicles traveling east on W Fenton Street shall stop at S Locust Street.
84. W Fenton Street. Vehicles traveling west on W Fenton Street shall stop at S Locust Street.
85. W Pine Street. Vehicles traveling east on W Pine Street shall stop at N Main Street.
86. W Pine Street. Vehicles traveling west on W Pine Street shall stop at N Linn Street.
87. W Railroad Street. Vehicles traveling east on W Railroad Street shall stop at N Main Street.
88. W Cedar Street. Vehicles traveling east on W Cedar Street shall stop at C Avenue.
89. W Second Avenue. Vehicles traveling east on W Second Ave shall stop at S Walnut Street.
90. W Second Avenue. Vehicles traveling west on W Second Ave shall stop at S Walnut Street.
91. W Spruce Street. Vehicles traveling east on W Spruce Street shall stop at N Main Street.
92. W Spruce Street. Vehicles traveling west on W Spruce Street shall stop at N Linn Street.

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Amherst Street and Main Street.
2. Intersection of Cedar Street and N Main Street.
3. Intersection of E Fenton Street and S Elm Street.
4. Intersection of Ridgeway Dr and Highland Drive.
5. Intersection of S Elm Street and E Fenton Street.

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

(Code of Iowa, Sec. 321.345)

1. E Amherst Street. Vehicles traveling east on E Amherst Street shall yield at Ames Street/Highway 143.
2. E Cedar Street. Vehicles traveling west on E Cedar Street shall yield at Ames/Highway 143.
3. E Pine Street. Vehicles traveling east on E Pine Street shall yield at Ames Street/Highway 143.
4. E Spruce Street. Vehicles traveling east on E Spruce Street shall yield at Ames Street/Highway 143.
5. N Ash Street. Vehicles traveling north on N Ash Street shall yield at E Spruce Street.
6. N Ash Street. Vehicles traveling south on N Ash Street shall yield at E Spruce Street.
7. N Beech Street. Vehicles traveling north on N Beech Street shall yield at E Pine Street.
8. N Beech Street. Vehicles traveling north on N Beech Street shall yield at E Spruce Street.
9. N Beech Street. Vehicles traveling south on N Beech Street shall yield at E Pine Street.
10. N Beech Street. Vehicles traveling south on N Beech Street shall yield at E Spruce Street.
11. N Elm Street. Vehicles traveling north on N Elm Street shall yield at E Spruce Street.
12. N Elm Street. Vehicles traveling south on N Elm Street shall yield at E Spruce Street.
13. N Locust Street . Vehicles traveling south on N Locust Street shall yield at E Spruce Street.
14. N Locust Street. Vehicles traveling north on N Locust Street shall yield at E Spruce Street.
15. N Maple Street. Vehicles traveling north on N Maple Street shall yield at W Pine Street.
16. N Maple Street. Vehicles traveling north on N Maple Street shall yield at W Spruce Street.
17. N Maple Street. Vehicles traveling south on N Maple Street shall yield at W Pine Street.
18. N Maple Street. Vehicles traveling south on N Maple Street shall yield at W Spruce Street.
19. N Oak Street. Vehicles traveling north on N Oak Street shall yield at E Spruce Street.
20. N Oak Street. Vehicles traveling south on N Oak Street shall yield at E Spruce Street.
21. N Walnut Street. Vehicles traveling north on N Walnut Street shall yield at W Pine Street.
22. N Walnut Street. Vehicles traveling north on N Walnut Street shall yield at W Spruce Street.
23. N Walnut Street. Vehicles traveling south on N Walnut Street shall yield at W Pine Street.
24. N Walnut Street. Vehicles traveling south on N Walnut Street shall yield at W Spruce Street.
25. S Oak Street. Vehicles traveling south on S Oak Street shall yield at E Barnes Street.

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)

- NONE -

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)

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

(Code of Iowa, Sec. 321.256)

- NONE -

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

|  |  |
| --- | --- |
| 66.01 Temporary Embargo | 66.04 Load Limits on Bridges |
| 66.02 Permits for Excess Size and Weight | 66.05 Truck Routes |
| 66.03 Load Limits Upon Certain Streets |  |

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

(Code of Iowa, Sec. 321.471 and 472)

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

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

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

(Code of Iowa, Sec. 321.473 and 475)

1. Linn Street from Amherst Street to Cedar Street
2. Section Street from Ames Street and Highway 143 to City limits.

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 Clerk 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. No person shall drive upon said bridge any vehicle weighing, loaded, or unloaded, 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 the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

1. Ames Street
2. Amherst Street
3. Cedar Street
4. Railroad Street
5. The north-most block of Maple Street between Cedar Street and Railroad Street
6. 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 set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload, and return by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

1. 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 | 67.03 Pedestrian Crossing |
| 67.02 Hitchhiking | 67.04 Use of Sidewalks |

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. The alley in block two of the City. Said alley is generally located between N Main Street and W Cedar Street directly south of W Railroad Street.
2. The alley in block three of the City. Said alley is generally located between N Main Street and W Pine Street directly south of W Cedar Street.

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CHAPTER 69

PARKING REGULATIONS

|  |  |
| --- | --- |
| 69.01 Park Adjacent to Curb | 69.07 Persons with Disabilities Parking |
| 69.02 Parking on One-Way Streets | 69.08 No Parking Zones |
| 69.03 Angle Parking | 69.09 All Night Parking Prohibited |
| 69.04 Manner of Angle Parking | 69.10 Truck Parking Limited |
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| 69.06 Parking Prohibited | 69.12 Snow Routes |

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. Cedar Street, on both sides from Maple Street to Locust Street.
2. Locust Street, on both sides in front of library between E Amherst Street and E Spruce Street
3. N Main Street, on both sides from Railroad Street to Spruce Street.
4. N Main Street, In designated marked areas between Amhurst Street and Spruce Street.
5. E Pine Street, on the south side from half block N Main Street to Locust Street
6. E Pine Street, In designated marked areas between N Main Street to N Locust Street.
7. W Pine Street, In designated marked areas between N Main Street and N Maple Street.

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. Within 10 feet of the crosswalk at all intersections within the City.

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

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

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

1. 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])

1. Sidewalks. On or across a sidewalk.

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

1. Driveway. In front of a public or private driveway. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than 20 feet of the width of the roadway for the free movement of vehicular traffic.

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

1. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.

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

1. Fire Hydrant. Within five feet of a fire hydrant.

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

1. 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])

1. 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])

1. 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])

1. 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])

1. 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])

1. 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])

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

(Code of Iowa, Sec. 321.360)

1. 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])

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

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

1. 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.
2. 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.
3. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.

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])

1. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.
2. 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*.
3. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
4. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
5. 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.
6. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

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

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

1. Ames Street /Highway 143, on the east side from Amherst Street to E Railroad Street.
2. Ames Street /Highway 143, on the west side from Holmes Street to E Railroad Street.
3. E Amherst Street, on the south side from Main Street to Ames Street/Highway 143.
4. W Amherst Street, on the south side from Main Street to N Walnut Street.
5. E Barnes Street, on the south side from S Elm Street to S Locust Street.
6. E Cedar Street, on the north side from half block west of N Oak Street to Ames Street/Highway 143.
7. W Cedar Street, on the north side from N Maple Street to 500 feet east of C Avenue.
8. E Fenton Street, on the north side from Ames Street /Highway 143 to half block west of S Locust Street.
9. E Pine Street, on the south side from half block west of N Elm Street to Ames Street/Highway 143.
10. E Pine Street, on the south side from N Oak Street to N Locust Street.
11. W Pine Street, on the south side from N Maple Street to N Linn Street.
12. E Spruce Street, on the north side from N Elm Street to Ames Street/Highway 143.
13. E Spruce Street, on the north side from N Main Street to N Oak Street.
14. Highland Drive, on the north side from S Elm Street to Ames Street/Highway 143.
15. Highland Drive, on the south side from S Elm Street to Ames Street/Highway 143.
16. Holmes Street, on the north side from 100 feet east of Reagan Street to Reagan Street.
17. Holmes Street, on the south side from 100 feet west of Reagan Street to Reagan Street.
18. N Ash Street, on the east side from E Railroad Street to E Amherst Street.
19. S Ash Street, on the east side from E Amherst Street to E Fenton Street.
20. N Beech Street, on the east side from E Railroad Street to E Amherst Street.
21. S Beech Street, on the east side from E Amherst Street to E Fenton Street.
22. S Beech Street, on the west side from 100 feet south of E Fenton Street to E Fenton Street.
23. N Elm Street, on the east side from E Railroad Street to E Spruce Street.
24. S Elm Street, on the east side from E Amherst Street to Highland Drive.
25. N Locust Street, on the east side from E Pine Street to E Amherst Street.
26. S Locust Street, on the east side from E Amherst Street to E Fenton Street.
27. N Maple Street, on the east side from W Railroad Street to W Amherst Street.
28. N Oak Street, on the east side from E Railroad Street to E Cedar Street.
29. N Oak Street, on the east side from E Spruce Street to E Amherst Street.
30. S Oak Street, on the east side from E Amherst Street to E Barnes Street.
31. N Walnut Street, on the east side from W Cedar Street to W Amherst Street.
32. Ridgeway Drive, on the east side from E Fenton Street to Holmes Street.

69.09 ALL NIGHT PARKING PROHIBITED.

1. Business District. No person, except physicians or other persons on emergency calls, shall park a vehicle on any streets in the business district for a period of time longer than 30 minutes between the hours of 2:30 a.m. and 6:00 a.m. on any day between November 15 and April 1 if there is any accumulation of snow on the ground or blowing snow that requires the City to use snow removal equipment. Vehicles must be removed immediately from the roadway upon arrival of snow removal equipment.
2. Residential Streets. No person, except physicians or other persons on emergency calls, shall park a vehicle on any streets in residential areas for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 7:00 a.m. on any day between November 15 and April 1 if there is any accumulation of snow on the ground or blowing snow that requires the City to use snow removal equipment. Vehicles must be removed immediately from the roadway upon arrival of snow removal equipment.

69.10 TRUCK PARKING LIMITED. Trucks licensed for five tons or more, loaded or empty, shall not be parked overnight in any residential or commercial/business area for more than 48 hours.

1. Parking Prohibited. No truck licensed for over five tons gross weight, loaded or empty, shall be parked upon any street or alley within the City for longer than one hour except while loading or unloading.
2. Parking Provided. Trucks may be parked on a parking lot provided by the Council at times designated by the Council. Trucks may be parked on private property only in areas zoned industrial or commercial.

69.11 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, and;

1. No person shall park, abandon, or leave unattended any vehicle, as defined in Chapter 321.1 of the *Code of Iowa* on any public street, alley, or City owned off-street parking November 1 through April 1 between the hours of 1:00 a.m. and 6:00 a.m.
2. Vehicles parked on any public street, alley, or City owned off-street parking area between the hours of 1:00 a.m. and 6:00 a. m. shall be ticketed and may be towed at owner’s expense. The towing and storage charges shall be the liability of the vehicle’s registered owner(s).

(Code of Iowa, 321.236[1])

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

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

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

|  |  |
| --- | --- |
| 70.01 Arrest or Citation | 70.04 Parking Violations: Vehicle Unattended |
| 70.02 Scheduled Violations | 70.05 Presumption in Reference to Illegal Parking |
| 70.03 Parking Violations: Alternate | 70.06 Impounding Vehicles |

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

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

(Code of Iowa, Sec. 805.6 and 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. 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 fine for each violation charged under a simple notice of a fine shall be in the amount of $25.00 for all violations except snow route parking violations and 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 fine for snow route parking violations is $25.00 and the fine for improper use of a persons with disabilities parking permit is $100.00.

(Code of Iowa, Sec. 321.236[1b] and 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.

1. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

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

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

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

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CHAPTER 75

ATVS, UTVS, AND SNOWMOBILES

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| --- | --- |
| 75.01 Purpose | 75.06 Negligence |
| 75.02 Definitions | 75.07 Accident Reports |
| 75.03 General Regulations | 75.08 Hours of Operation |
| 75.04 Operation of Snowmobiles | 75.09 Registration |
| 75.05 Operation of ATVs and UTVs |  |

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

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

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

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

1. “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)

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

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

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

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

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

An operator of an UTV is also subject to the provisions of this chapter governing the operation of ATVs.

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

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

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

(Code of Iowa, Ch. 321G and Ch. 321I)

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

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council. Snowmobiles shall be operated in compliance of this section upon the following streets and highways within the City:

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

1. Railroad Street
2. Amherst Street
3. Fenton Street
4. North Linn Street
5. Beech Street
6. Section Street
7. Walnut Street
8. West Cedar Street from Walnut Street to the west City limit.
9. Main Street between Amherst Street and Pine Street

Snowmobile operators may also operate their snowmobiles on streets and highways from their place of residence along the shortest or closest route to an approved street or likewise on return to their place of residence. The route established herein shall be the only permitted snowmobile route and the snowmobiles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

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

1. 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])

1. 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])

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

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

1. 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.
2. 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.
3. Prohibited. It shall be unlawful for any person to operate a snowmobile under the following circumstances:
4. Private Property. On private property of another without the express permission to do so by the owner or occupant of said property.
5. Noise. 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.
6. Registration. Without having such snowmobile registered as provided for by Iowa statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of their immediate family.
7. Driver’s License. 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.

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

1. Streets. ATVs and UTVs may be operated on all roadways in the City with the exception of Highway 143 (Ames Street). In regard to Highway 143 (Ames Street) it will be permissible for ATVs to cross said highway at designated intersections with Cedar Street, Pine Street, Spruce Street, and Amherst Street in said community; or in accordance with the conditions outlined in Section 321.234A of the *Code of Iowa*.
2. Trails. ATVs and UTVs shall not be operated on snowmobile trails except where designated.

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

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

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

1. Parks and Other City Land. ATVs and UTVs shall not be operated in any park, playground, or upon any other City-owned property without the express permission of the City.
2. Sidewalk or Parking. ATVs and UTVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”
3. Direct Crossing. An ATV or UTV may make a direct crossing of a highway that is not part of the interstate road system provided all of the following occur:

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

1. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
2. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
3. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
5. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.
6. License. Must be at least 16 years of age and have a valid motor vehicle operator’s license. All 16–17-year-old operators shall also have completed an ATV/UTV safety course and show Certificate of Proof.
7. Equipment. All ATVs/UTVs shall be equipped with the original manufacturer’s muffler and exhaust system or their equivalent, not to exceed the manufacturer’s original emission specification. Each vehicle additionally must be equipped with lights and taillights and all safety equipment required of motor vehicles by law or ordinance. If the ATV/UTV is equipped with seatbelts by design, they must be worn by all occupants when the vehicle is in motion.
8. Safety Flags. Must be equipped with the bicycle safety flag of florescent orange color on a staff holder to put such flag at least five feet above the surface of the street and extend a minimum of two feet above the highest point of the ATV/UTV. Also to have a slow moving vehicle sign.
9. Traffic Code Observed. Any operator of any ATV/UTV must observe all State and local traffic control regulation and devised and shall not operate an ATV/UTV at a speed in excess of that posted, or at any time, at a speed greater than is reasonable and proper under the existing conditions, and never in excess of 25 mph.
10. Careless Operation. No person shall operate an ATV/UTV in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
11. Unattended ATVs/UTVs and Parking. No owner or operator of an ATV/UTV shall leave an ATV/UTV unattended on public property while the motor is running or with keys in the ignition switch. Owners and operators of ATVs/UTVs must obey all parking regulations in the City.

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

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

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

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

75.08 HOURS OF OPERATION.

1. ATVs and UTVS. ATVs/UTVs shall only be operated sunrise to sunset. The only permitted operation after these hours shall be for routine snow removal or in emergency situations.
2. Snowmobiles. Snowmobiles shall not be operated in the City between the hours of 11:00 p.m. and 10:00 a.m. except for emergency situations or for routine snow removal or for loading and unloading from a vehicle or trailer.

75.09 REGISTRATION. Every owner or operator of an ATV or UTV shall have their vehicle registered with the Iowa DNR at the County Courthouse and have a registration decal issued in accordance with Iowa law. All decals will expire at midnight on December 31 of each year unless sooner terminated or discontinued in accordance with law. After the first day of September each year any unregistered ATV or UTV owner may have their registration renewed for the subsequent year beginning January 1.

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CHAPTER 76

BICYCLE REGULATIONS

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

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

1. 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])

1. 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 500 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 500 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)

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

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

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

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CHAPTER 78

GOLF CARTS

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| 78.01 Definitions | 78.05 Equipment |
| 78.02 Operation of Golf Carts Permitted | 78.06 Hours |
| 78.03 Passengers and Seating | 78.07 Financial Responsibility |
| 78.04 Prohibited Streets |  |

78.01 DEFINITIONS. For use in this chapter “golf cart” is defined as a motorized four-wheeled vehicle designed to transport person(s) on a golf course.

78.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City except as prohibited in this section by persons 16 years of age or over.

78.03 PASSENGERS AND SEATING. Total occupancy, including the driver, may not exceed the maximum intended by design of the vehicle.

1. The driver of a golf cart operated on any public street or right-of-way within the City is required to ensure that all passengers are seated in accordance to the design for such golf carts.

2. If the golf cart has a bench seat, no more than three people shall be seated on it. No person shall be permitted to ride on the lap of another person or in any portion of the golf cart not designed for the seating of passengers.

3. If safety belts are installed, all occupants shall use seat belts.

78.04 PROHIBITED STREETS. Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such primary road extension.

78.05 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a slow-moving vehicle sign and a bicycle safety flag or proper motor vehicle lighting if conditions warrant and at all times during operation shall have adequate brakes.

78.06 HOURS. Golf carts may be operated on City streets only between sunrise and sunset unless properly equipped with functioning headlights and taillights.

78.07 FINANCIAL RESPONSIBILITY. The owner or operator of any golf cart upon the City streets within the City limits must maintain and provide current proof of financial responsibility in accordance with Section 321.20B of the *Code of Iowa* or equivalent coverage.

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CHAPTER 80

ABANDONED VEHICLES

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| 80.01 Definitions | 80.06 Disposal of Abandoned Vehicles |
| 80.02 Authority to Take Possession of Abandoned Vehicles | 80.07 Disposal of Totally Inoperable Vehicles |
| 80.03 Notice by Mail | 80.08 Proceeds from Sales |
| 80.04 Reclamation of Abandoned Vehicles | 80.09 Duties of Demolisher |
| 80.05 Fees for Impoundment |  |

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

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

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

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

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

80.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody, no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
3. A description of the year, make, model and vehicle identification number of the vehicle.
4. The location of the facility where the vehicle is being held.
5. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.
6. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.
7. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
8. If the abandoned vehicle was taken into custody by a private entity without a police authority’s initiative, the notice shall state that the private entity may claim a garage keeper’s lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
9. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity, or of the assessment of fees and charges provided by this section, may ask for an evidentiary hearing before the police authority to contest those matters.
10. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.
11. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.
12. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles, but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

80.06 DISPOSAL OF ABANDONED VEHICLES.  If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.  The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES.  Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 90 days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

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

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CHAPTER 81

RAILROAD REGULATIONS

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| 81.01 Definitions | 81.03 Crossing Maintenance |
| 81.02 Obstructing Streets |  |

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

1. “Operator” means any individual, partnership, corporation, or other association that owns, operates, drives, or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley for a period of time in excess of 10 minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.03 CROSSING MAINTENANCE.  Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago and N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

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| 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 Fee for Permit | 90.16 Inspection and Approval |
| 90.07 Compliance with Plumbing Code | 90.17 Completion by the City |
| 90.08 Plumber Required | 90.18 Shutting Off Water Supply |
| 90.09 Excavations | 90.19 Operation of Curb Valve and Hydrants |
| 90.10 Tapping Mains | 90.20 Prohibiting Installation Of Non-Public Water Wells |

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

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

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

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

90.03 MANDATORY CONNECTIONS. 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 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay $50.00 for residential and $75.00 for industrial to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

(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 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 main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

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

(Code of Iowa, Sec. 364.12[3a and 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 and 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 PROHIBITING INSTALLATION OF NON-PUBLIC WATER WELLS. No non-public water well or water supply system shall be installed where a public water supply system is reasonably accessible to the landowner. The determination of accessibility shall be made by the City Engineer with a final determination to be made by the Council. In the event the City Engineer or Council determines the property is not accessible to a public water supply system or if there is clear and convincing evidence that the accessible public water supply is inadequate to meet the needs of the landowner, then a variance from this section may be obtained from the Planning and Zoning Commission with final approval by the Council if a well permit is obtained pursuant to State law or City Ordinance.

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CHAPTER 91

WATER METERS

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| 91.01 Purpose | 91.07 Meter Repairs |
| 91.02 Water Use Metered | 91.08 Right of Entry |
| 91.03 Fire Sprinkler Systems; Exception | 91.09 Meter Installation Fee |
| 91.04 Location of Meters | 91.10 Meter Accuracy and Test |
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| 91.06 Meter Costs |  |

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 or licensed plumber. The City will furnish one meter.

91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

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

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

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

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

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

91.09 METER INSTALLATION FEE. The property owner shall pay an installation fee of $0.00 for each new installation of a water meter to a three-quarter inch line. Such meter is to remain the property of the City.

91.10 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent’s assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns the cost of $35.00 plus shipping shall be paid by the homeowner and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than 12 months. If the meter is found to be accurate or slow less than 95 percent at one-fourth gpm or 102 percent at 20 gmp fast or meet AWWA specifications, the patron shall pay the reasonable costs of the tests.

91.11 SECOND METERS FOR WATER ONLY. Customers will be allowed to install a second water meter for outdoor use only. The meter purchased from the City and all expense of installation will be paid by the customer with the City retaining ownership. Plan of installation must be inspected by City staff. Billing will occur in those months when water is used. There will be no sewer charges on such meters.

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CHAPTER 92

WATER RATES

|  |  |
| --- | --- |
| 92.01 Service Charges | 92.06 Lien for Nonpayment |
| 92.02 Rates For Service | 92.07 Lien Exemption |
| 92.03 Rates Outside the City | 92.08 Lien Notice |
| 92.04 Billing for Water Service | 92.09 Customer Deposits |
| 92.05 Service Discontinued | 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. The following rates and charges for the use of municipal water for the residents of the City and for the service provided by the City water system are hereby established based on meter readings of the amount consumed:

(Code of Iowa, Sec. 384.84[1])

Effective for billings made on or after May 1, 2023:

1. Base water charge per month $9.47

2. Unit charge per 1,000 gallons of water consumed per month $6.25

All meters shall be read and gallonage determined on a monthly billing cycle.

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the rates identified in Section 92.02 plus 20 percent. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 and 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the 1st day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 15th day of the same month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent of the amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified.
4. Fees. A fee of $40.00 shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, stormwater drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
3. Written Notice. The landlord’s written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.
4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

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

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer not the owner of the premises served a $100.00 deposit intended to guarantee the payment of bills for service.

(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 a $25.00 fee collected for shutting the water off at the curb valve and a $25.00 fee for restoring service. Water turn-on or turn-off service shall not be scheduled after 3:00 p.m. 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 | 95.07 Right of Entry |
| 95.02 Definitions | 95.08 Use of Easements |
| 95.03 Superintendent | 95.09 Special Penalties |
| 95.04 Prohibited Acts | 95.10 Abandoned Sewer Lines |
| 95.05 Sewer Connection Required | 95.11 Powers and Authority to Designated Inspectors |
| 95.06 Service Outside the City |  |

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℃, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “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 stormwaters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
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 that 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)

1. 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.
2. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.
3. 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.
4. 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])

1. 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 60 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])

(567 IAC 69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

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

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

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

95.10 ABANDONED SEWER LINES. When an existing sanitary sewer service is abandoned or a service is renewed with a new connection in the main, all abandoned connections with the mains shall be capped off and made absolutely watertight.

95.11 POWERS AND AUTHORITY TO DESIGNATED INSPECTORS. Designated employees of the City and employees of authorized contractors who are conducting investigations on behalf of the City are hereby permitted to enter all properties for the purpose of conducting sump pump surveys, inspection, observation, measurements, sampling, and testing in accordance with the provisions of this chapter.

1. Notice of Inspection. Except for emergency situations the City or its authorized representative will give each owner and/or occupant at least a 24 hour notice of the time and place when the inspection-survey will be conducted on their dwelling or building.
2. Sump Pump Survey. The sump pump survey or inspection of each residence and commercial building in the City will be conducted by employees and/or representatives by an environmental firm who has been hired by the City to do the sump pump survey and all of their inspectors will show and display appropriate credentials at the time they enter the premises to conduct the survey or inspection.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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| 96.01 Permit | 96.06 Interceptors Required |
| 96.02 Permit Fee | 96.07 Sewer Tap |
| 96.03 Plumber Required | 96.08 Inspection Required |
| 96.04 Excavations | 96.09 Property Owner’s Responsibility |
| 96.05 Connection Requirements | 96.10 Abatement of Violations |

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the following information:

1. The location and description of the property to be connected with the sewer system.
2. The purpose for which the sewer is to be used.
3. Plans, specifications, or other information considered pertinent.

The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner’s control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The person who makes the application shall pay a fee in the amount of $50.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

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

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 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:
7. Recommended grade at one-fourth inch per foot.
8. Minimum grade of one-eighth inch per foot.
9. Minimum velocity of two feet per second with the sewer half full.
10. 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.
11. 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.
12. 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.
13. 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:
14. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
15. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
16. Ductile iron water pipe – A.W.W.A. C-151.
17. P.V.C. – SDR26 – A.S.T.M. D-3034.
18. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.
19. 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.
20. 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.
21. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

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

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

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

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

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

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

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

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CHAPTER 97

USE OF PUBLIC SEWERS

|  |  |
| --- | --- |
| 97.01 Stormwater | 97.05 Restricted Discharges; Powers of Superintendent |
| 97.02 Surface Waters Exception | 97.06 Special Facilities |
| 97.03 Prohibited Discharges | 97.07 Control Manholes |
| 97.04 Restricted Discharges | 97.08 Testing of Wastes |

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

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids, or Flow.
6. Any waters or wastes:

(1) Having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or

(2) Containing more than 350 parts per million by weight of suspended solids; or

(3) Having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

1. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner’s expense, such preliminary treatment as may be necessary to:

(1) Reduce the biochemical oxygen demand to 300 parts per million by weight; or

(2) Reduce the suspended solids to 350 parts per million by weight; or

(3) Control the quantities and rates of discharge of such waters or wastes.

1. 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℉ (65℃).
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℉ and 150℉ (0℃ to 65℃).
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:
11. 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).
12. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
13. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
14. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
15. 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.
16. 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.
17. 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.)

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

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| 98.01 When Prohibited | 98.05 Discharge Restrictions |
| 98.02 When Required | 98.06 Maintenance of System |
| 98.03 Compliance with Regulations | 98.07 Systems Abandoned |
| 98.04 Permit Required | 98.08 Disposal of Septage |

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

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(567 IAC 69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(567 IAC 69.1[3 and 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(567 IAC 69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

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

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CHAPTER 99

SEWER SERVICE CHARGES

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| 99.01 Sewer Service Charges Required | 99.04 Payment of Bills |
| 99.02 Special Rates | 99.05 Lien for Nonpayment |
| 99.03 Private Water Systems | 99.06 Special Agreements Permitted |

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

(Code of Iowa, Sec. 384.84)

Effective for billings made on or after May 1, 2023:

1. Base sewer charge per month $6.76

2. Unit charge per 1,000 gallons of water consumed per month $7.13

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

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| 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. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.

(Code of Iowa, Sec. 455B.361[1])

1. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
2. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(567 IAC 100.2)

1. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

(567 IAC 20.2)

1. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

(Code of Iowa, Sec. 455B.361[2])

1. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.
2. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.

(567 IAC 100.2)

1. “Residential premises” means a single-family dwelling and any multiple-family dwelling.
2. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

(567 IAC 20.2)

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

(567 IAC 100.2)

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

(567 IAC 100.2)

1. “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. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

1. “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)

1. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
2. 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.
3. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
4. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
5. 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.
6. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa.*
7. Post-use polymers or recoverable feedstocks that are any of the following:

(1) Processed at a pyrolysis or gasification facility.

(2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

1. “Toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

1. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

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

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

(567 IAC 23.2 and 100.2)

1. Landscape Waste. The disposal by open burning of landscape waste originating on the premises during the period commencing October 15 and ending November 15 of each year and the period commencing April 15 and ending May 15 of each year. 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. All disposal of landscape waste during open burning must be on the premises which excludes City sidewalks or parking area and such open burning must comply with the State Fire Prevention Code.

(567 IAC 23.2[3]“d”)

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

(567 IAC 23.2[3]“e”)

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

(567 IAC 23.2[3]“g”)

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 taken to the City operated burn site.

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.

(567 IAC 100.2)

(567 IAC 102.13[2] and 400 IAC 27.14[2])

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:
2. Residential. The contracting company will provide one residential container for every household. The contracting hauler will not pick up any bags or cans exceeding the container per household limit without a separate agreement with the household.
3. 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.
4. 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 and 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.
5. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
6. 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.
5. Burning Barrels Use Limited. No person shall allow, cause, or permit the use of burning barrels for the purpose of open burning of garbage, refuse, rubbish, trade waste, at any time. The use of burning barrels for landscape waste is also prohibited except during the limited periods designated specifically between October 15 to November 15 and April 15 to May 15.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Cherokee 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

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| 106.01 Collection Service | 106.06 Right of Entry |
| 106.02 Collection Vehicles | 106.07 Contract Requirements |
| 106.03 Loading | 106.08 Collection Fees |
| 106.04 Frequency of Collection | 106.09 Lien for Nonpayment |
| 106.05 Bulky Rubbish | 106.10 Recyclables |

106.01 COLLECTION SERVICE. The City shall provide by contract 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.

(567 IAC 104.9)

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises 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 from residential premises 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 for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449 [Iowa 1970])

1. Fee for Collection. The initial rate will be the sum of $13.25 per month for the collection of both garbage and recyclables. Rates for all commercial businesses and establishments within the City shall be established by agreement with the contractor.
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.
3. Landfill Rates. Landfill rates will be charged on a monthly basis. The landfill rate due from each residential dwelling or apartment shall be $11.44 per month. Such charge shall be billed monthly to the person(s) owning or residing at any such dwelling or apartment as part of their water bill. There shall be a charge for each unoccupied residence or dwelling unit for the landfill assessment at the same rate of $11.44 per month.

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)

106.10 RECYCLABLES. This chapter also specifically includes the picking up and hauling away of recyclables including tin, glass, plastics, and all paper products on alternate weeks and also provides that the contractor provide the containers for such services.

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CHAPTER 110

NATURAL GAS FRANCHISE

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| 110.01 Franchise Granted | 110.11 Applicable Regulations |
| 110.02 Rights and Privileges | 110.12 Term of Franchise |
| 110.03 Pipes and Mains | 110.13 Regulation and Enforcement |
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| 110.05 Excavation | 110.15 Management Fees |
| 110.06 Utility Easements | 110.16 Termination |
| 110.07 Relocation Not Required | 110.17 Validity |
| 110.08 Relocation Reimbursement | 110.18 Litigation |
| 110.09 Indemnification | 110.19 Assignment |
| 110.10 Information |  |

110.01 FRANCHISE GRANTED. There is hereby granted to MIDAMERICAN ENERGY COMPANY, an Iowa corporation, (hereinafter called “Company”), and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Marcus, Iowa, (hereinafter called the “City”), a gas distribution system, to furnish natural gas along, under, and upon the right-of-way, streets, avenues, alleys, and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. This franchise shall be effective for a 25 year period from and after the effective date of this chapter.[[5]](#footnote-5)†

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*, or as subsequently amended or changed.

110.03 PIPES AND MAINS. The Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing, or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”) at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. Relocation expenses for other hard surfaces, including pedestrian and non­motorized vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree and vegetation removal must be completed by the City as part of the City’s project and are necessary whether or not utility facilities must be relocated, the City, at its own cost shall be responsible for said removals. If the timing of the tree/vegetation removal does not coincide with the Company facilities relocation schedule and Company must remove trees/vegetation that are included in the City’s portion of the project, the City shall either remove the material at its cost or reimburse the Company for the expenses incurred to remove said vegetation or trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation

110.05 EXCAVATION. In making excavations in any streets, avenues, alleys, and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right-of-way, sidewalks, or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with City, State, or federal rules, regulations, or laws.

110.06 UTILITY EASEMENTS. The City’s vacating a street, avenue, alley, public ground, or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than 60 days advance notice of the City’s proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public ground, the City shall, at its cost and expense, obtain easements for the existing Company facilities.

110.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City at any time during the previous 10 years.

110.08 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required hereunder, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

110.09 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company’s negligence in construction, reconstruction, excavation, operation, or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

110.10 INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in the public right-of-way, including documents, maps, and other information in paper or electronic or other forms (“Information”). The Company and City recognize the information may in whole or part be considered a confidential record under State or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company’s facilities within the City, the City will promptly submit same to the Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by State or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within 10 days.

110.11 APPLICABLE REGULATIONS. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.12 TERM OF FRANCHISE. During the term of this franchise the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company’s tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.13 REGULATION AND ENFORCEMENT. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

110.14 FRANCHISE FEE. A franchise fee of zero percent is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, generated from sales of natural gas and distribution service:

1. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.
2. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City’s documentation of customer classes subject to or exempted from City imposed franchise fee.
3. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.
4. 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.

110.15 MANAGEMENT FEES. Upon implementation of a franchise fee, the City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge Company right-of-way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

110.16 TERMINATION. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

110.17 VALIDITY. If any section, provision, or part of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

110.18 LITIGATION. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

110.19 ASSIGNMENT. This chapter and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide the Company with an original signed and sealed copy of this chapter within 10 days of its final passage. The Company shall, within 30 days after the Council approval of this chapter, file in the office of the Clerk of the City, its acceptance in writing of all the terms and provisions of this chapter. Following Council approval, this chapter shall be published in accordance with the *Code of Iowa*. The effective date of this chapter shall be the date of publication. In the event that the Company does not file its written acceptance of this chapter within 30 days after its approval by the Council, this chapter shall be void and of no effect.

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CHAPTER 111

ELECTRIC FRANCHISE

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| 111.02 Rights and Privileges | 111.12 Term of Franchise |
| 111.03 Placement of Appliances | 111.13 Franchise Fee |
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111.01 FRANCHISE GRANTED. There is hereby granted to MIDAMERICAN ENERGY COMPANY, an Iowa corporation, (hereinafter called “Company”), and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Marcus, Iowa, (hereinafter called the “City”), a system, for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, rights-of-way and alleys to serve customers within the City, and to furnish a and sell electric energy to the City and its inhabitants. The company is granted the right to exercise of powers of eminent domain, subject to the Council approval. This franchise shall be effective for a 25-year period from and after the effective date of this chapter.[[6]](#footnote-6)†

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*, or as subsequently amended or changed.

111.03 PLACEMENT OF APPLIANCES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conduits or conductors for the distribution of electric energy and communications signals in and through the City, provided the same shall be placed in accord with this franchise and City code regulations of the City, regarding the placement of structures, facilities, accessories or other objects in the right-of-way, including ordinances which assign corridors or other placements to users of the right-of-way and requirements which may be adopted regarding separation of structures, facilities, accessories, or other objects.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s Tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”), at its cost and expense, locate and relocate its existing installations located in, on, over or under the right-of-way of any public street, right-of-way or alley in the City in such a manner as the City may require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street right-of-way or alley. If the City has a reasonable alternative route for the street, right-of-way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall, in the extension or modification of streets and roads, make provision for the placement of Company service lines and facilities on City-owned right-of-way without charge to Company. In planning for the extension or modification of streets, the City shall, to the extent practicable, design such changes to limit the need for relocation of Company facilities. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If vegetation and tree removals must be completed by the City as part of the City’s project and are necessary whether or not utility facilities must be relocated, the City, at its own cost, shall be responsible for said removals. If the timing of vegetation and tree removals does not coincide with Company’s facilities relocation schedule and the Company must remove vegetation and trees that are included in the City’s portion of the project, the City shall either remove them or reimburse the Company for the expenses incurred to remove said materials. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 EXCAVATION. In making excavations in any streets, avenues and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right-of-way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit; provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all provisions and requirements of the City in its regulation of the use of City right-of-way in performing such work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company’s excavation but shall not be required to improve or modify the 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. The Company shall complete all repairs in a timely manner. The Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

111.06 UTILITY EASEMENT. Vacating a street, avenue, alley, public ground, or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities and their replacements on, below, above, or beneath the vacated property. 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.

111.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City in the previous 10 years.

111.08 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly facilitate a project for the primary benefit of a commercial or private developer or other non-public entity, the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

111.09 INDEMNIFICATION. The Company shall indemnify, save, and hold harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company’s negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

111.10 REMOVAL OF VEGETATION. The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and State law, rules, and regulations. The Company is authorized and empowered to prune or remove at Company expense, any tree extending into any street, avenue, right-of-way, alley, public place, 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 vegetation and trees shall be completed in accordance with nationally accepted safety and utility standards, NSI Z133.l-2012, American National Standard for Arboricultural Operations-Safety Requirements, and ANSI A300(part 1)-2008 Pruning, (Revision of ANSI A300 part 1-2001) American National Standard for Tree, Shrub, and other Woody Plant Management - Standard of Practices (Pruning) or subsequent revisions to these standards, and City ordinances regarding the pruning of trees that incorporate by reference that standard.

111.11 INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way, including documents, maps, and other information in paper or electronic or other forms (“Information”). The Company and City recognize the information may in whole or part be considered a confidential record under State or federal law or both. Therefore, City shall not release any information without prior consent of the Company and shall return the information to Company upon request. City recognizes that Company claims the information may constitute a trade secret or is otherwise protected from public disclosure by State or federal law on other grounds, and agrees to retain the information in its non-public files. Furthermore, the City agrees that no documents, maps or other information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all costs, including attorney fees and penalties, to the extent allowed by law.

111.12 TERM OF FRANCHISE. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company’s tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

111.13 FRANCHISE FEE. There is hereby imposed upon the customers a franchise fee of zero percent upon the gross revenues, minus uncollectible accounts, generated from sales of electricity and distribution service, pursuant to the tariff, by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

1. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.
2. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City’s documentation of customer classes subject to or exempted from City imposed franchise fee.
3. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.
4. 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.

111.14 MANAGEMENT FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111.15 APPLICABILITY. This franchise shall apply to and bind the City and Company and their successors and assigns.

111.16 TERMINATION. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

111.17 LEGALITY. If any of the provisions of this franchise chapter are for any reason declared to be illegal or void, the lawful provisions of this franchise chapter, which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the franchise chapter contained no illegal or void provisions.

111.18 LITIGATION. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

111.19 ASSIGNMENT. This chapter and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this chapter within 10 days of its final passage. The Company shall, within 30 days after the Council approval of this chapter, file in the office of the Clerk, its acceptance in writing of all the terms and provisions of this chapter. Following Council approval, this chapter shall be published in accordance with the *Code of Iowa*. The effective date of this chapter shall be the date of publication. In the event Company does not file its written acceptance of this chapter within 30 days after its approval by the Council, this chapter shall be void and of no effect.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

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| 120.01 License or Permit Required | 120.04 Action by Council |
| 120.02 General Prohibition | 120.05 Prohibited Sales and Acts |
| 120.03 Investigation | 120.06 Amusement Devices |

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a retail alcohol license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Alcoholic Beverages Division.

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person holding a retail alcohol license and the person’s agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

1. Sell or dispense any alcoholic beverage on the premises covered by the license, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

(Code of Iowa, Sec. 123.49[2b])

1. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

1. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

1. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

1. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

1. Knowingly permit or engage in any criminal activity on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2j])

1. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

1. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

1. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

1. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

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

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

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

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| 121.01 Definitions | 121.06 Refunds |
| 121.02 Permit Required | 121.07 Persons Under Legal Age |
| 121.03 Application | 121.08 Self-Service Sales Prohibited |
| 121.04 Fees | 121.09 Permit Revocation |
| 121.05 Issuance and Expiration |  |

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)

1. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

|  |  |
| --- | --- |
| **FOR PERMITS GRANTED DURING:** | **FEE:** |
| July, August, or September | $ 75.00 |
| October, November, or December | $ 56.25 |
| January, February, or March | $ 37.50 |
| April, May, or June | $ 18.75 |

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. 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 of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of $300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 or the retailer’s permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer’s permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer’s permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer’s permit shall be revoked.

The Clerk shall give 10 days’ written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

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| 122.01 Purpose | 122.10 Time Restriction |
| 122.02 Definitions | 122.11 Revocation of License |
| 122.03 License Required | 122.12 Hearing |
| 122.04 Application for License | 122.13 Record and Determination |
| 122.05 License Fees | 122.14 Appeal |
| 122.06 Bond Required | 122.15 Effect of Revocation |
| 122.07 License Issued | 122.16 Rebates |
| 122.08 Display of License | 122.17 License Exemptions |
| 122.09 License Not Transferable | 122.18 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 licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. An application fee of $50.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. In addition to the application fee identified in Section 122.04 of this chapter, the following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Peddlers or Transient Merchants.
2. For one day $10.00
3. For one week $30.00
4. For one month $50.00
5. For up to three months $100.00
6. For up to six months $150.00
7. For one year or major part thereof $ 250.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s license in the merchant’s place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of 9:00 a.m. and 8:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee’s local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least $5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Local School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[15])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit to the Clerk in writing the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

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| 123.02 Permit Required | 123.08 Public Safety |
| 123.03 Application | 123.09 Time Limit |
| 123.04 Bond Required | 123.10 Removal by City |
| 123.05 Insurance Required | 123.11 Protect Pavement |
| 123.06 Permit Fee | 123.12 Overhead Wires |

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk on a form provided by the City. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of $5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – $50,000.00 per person; $100,000.00 per accident.
2. Property Damage – $50,000.00 per accident.

123.06 PERMIT FEE. A permit fee set by resolution by the Council shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder’s bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124

HOTEL AND MOTEL TAX

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| 124.01 Definitions | 124.04 Collection |
| 124.02 Tax Imposed | 124.05 Use of Revenues |
| 124.03 Tax Exemptions |  |

124.01 DEFINITIONS. For purposes of this chapter the following terms are defined.

1. “Lodging” means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home, which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. Lodging does not include rooms that are not used for sleeping accommodations.
2. “Renting” or “rent” means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.
3. “Sales price” means the consideration for renting of lodging and means the same as the term is defined in Section 423.1 of the *Code of Iowa*.

All other words and phrases used in this chapter and defined in Section 423.1 of the *Code of Iowa* have the meaning given them by Section 423.1 for the purposes of this chapter.

(Code of Iowa, Sec. 423A.2)

124.02 TAX IMPOSED. There is hereby imposed a five percent local hotel and motel tax upon the sales price from the renting of lodging within the City. The tax is effective January 12, 2012. As such as required by law, the abstract of votes approving the measure were sent to the County Auditor on November 15, 2011, and adopted by the Council on December 28, 2011.

(Code of Iowa, Sec. 423A.4)

124.03 TAX EXEMPTIONS. All of the following are exempted from the provisions of this chapter and from the computation of any amount of tax imposed by Section 124.02:

1. The sales price from the renting of lodging to a person where the lodging is rented by the same person for a period of more than 31 consecutive days, except as provided in Subsection 2 of this section.
2. The sales price from the renting of lodging to a person where the lodging is rented by the same person for the period beginning after 90 consecutive days of rental by such person, if the rental is a room, apartment, or sleeping quarter in a hotel, motel, inn, public lodging house, or rooming house, or in any place where sleeping accommodations are furnished to a transient guest.
3. The sales price of lodging furnished to the guests of a religious institution if the property is exempt under Section 427.1[8] of the *Code of Iowa*, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.
4. The sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the City.
5. The sales price of lodging furnished to the guests of a nonprofit lodging provider and the purpose of renting is to provide a place for the friends and family of a hospital patient during a time of medical need of the patient and the length of stay is based upon the needs of the friends, family, or patient. For purposes of this subsection, *“*nonprofit lodging provider*”* means a nonprofit entity which is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that maintains an established facility that provides lodging to friends and family of a hospital patient during a time of medical need of the patient.

(Code of Iowa, Sec. 423A.5)

124.04 COLLECTION**.** The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.6)

124.05 USE OF REVENUES. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City and shall be used as follows:

1. At least 50 percent of the revenue derived from the hotel and motel tax shall be spent for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the City for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.
2. The remaining revenues may be spent by the City for any City operation authorized by law as a proper purpose for the expenditure within statutory limitations of City revenue derived from ad valorem taxes.

(Code of Iowa, Sec. 423A.7)

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CHAPTER 126

MOBILE FOOD UNITS

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| 126.01 Definitions | 126.05 Performance Standards |
| 126.02 Permit Required | 126.06 Permit Fees |
| 126.03 Permit Application | 126.07 Suspension or Revocation Permit |
| 126.04 Locations |  |

126.01 DEFINITIONS. “Mobile food vendor” means a person engaged in the business of selling food or beverages from a mobile food self-contained motorized vehicle, trailer, or pushcart.

126.02 PERMIT REQUIRED. It shall be unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility on public property within the corporate limits of the City without first obtaining a Mobile Food Unit Permit from the City, in addition to any other State or federal permits, certifications and licenses. A Mobile Food Unit Permit by the City shall be subject to the following:

1. A Mobile Food Unit Permit may be an annual permit that expires on December 31 of each year or a single use permit.

2. Each mobile food unit shall be permitted separately. No permit transfer between units is allowed.

3. Permits are location specific. Multiple locations will require additional permits.

4. Each mobile food unit shall comply with State of Iowa requirements for health inspections, licensing, safety, and Fire Code requirements and display its licensing in full view of the public in or on the unit.

5. The following shall be exempt from this requirement:

A. For community events, the City Clerk may issue a license to the organization hosting the event to allow mobile vendors authorized by the hosting organization to operate without an individual mobile vendor license for a limited number of days, not to exceed the number of days of the event being hosted.

B. Catering businesses.

C. Grilling and food preparation activities of brick-and-mortar establishments on the establishment’s premises for immediate consumption by patrons or employees.

D. Concession stands associated with sports or recreational venues that have been approved as part of the site plan or permitted Conditional Use Permit for the venue.

**126.03 PERMIT APPLICATION.**

1. Filing. Application requests shall be filed with the City Clerk. No application request shall be accepted for filing and processing unless it conforms to the requirements of this chapter. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the required fees.

2. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than 10 calendar days prior to the proposed start date of the mobile food unit activities. The City reserves the right to reject any application that has not been timely submitted to the City.

3. Application Contents. Application shall be made on a form provided by the City and shall include:

A. Full name of the applicant.

B. Applicant’s contact information including mailing address, phone numbers and e-mail address.

C. State health inspection certificate with the classification level of the State license.

D. Photographs of the mobile food unit from the front, side and back.

E. Make, model and year of vehicle to be used and the license plate number.

4. Right to Appeal. Any applicant whose application for a permit was disapproved may appeal to the Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the Council at least seven days prior to the meeting. As a result of this appeal, the Council may affirm, modify, or reverse the decision of the City Clerk not to issue the permit. If the application for a permit is denied, the applicant is not eligible for the issuance of a permit under this chapter for a period of one year from the date of notification that the permit application was disapproved, was served in person or deposited in U.S. Mail.

5. Application Deemed Withdrawn. Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within 30 days from the last notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

6. Issuance of Permit. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk may issue a Mobile Food Unit Permit.

**126.04 LOCATIONS.** A mobile food unit may be parked on public property or street as approved in the permit application or as part of a City approved event. Mobile units are prohibited from parking within 150 feet of the main entrance of an establishment that sells prepared food. This only applies from one hour before the establishment’s opening to one hour after closing, without approval from the food establishment owner.

**126.05 PERFORMANCE STANDARDS.** Persons conducting business from a mobile food unit must do so in compliance with the following standards:

1. The mobile food vendor must obtain a Mobile Food Unit Permit from the City if on public property. The permit must be kept in full view of the public in or on the unit. Written consent does not excuse or permit the violation of any other imposable regulations.

2. Mobile food units that are within 150 feet of a residential use or residentially zoned property, shall be limited to hours of operation between 7:00 a.m. and 10:00 p.m.

3. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

4. All mobile food units shall maintain a minimum separation from buildings of 10 feet as measured to the closest building element including awnings or canopies, tents, or membrane structures. Location of the mobile food unit shall not impede pedestrians entering or exiting a building.

5. The window or area where a patron orders and receives their purchase shall be located so as not to require a patron to stand or create a line that may cause pedestrians to be in the public right-of-way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Adequate space for patrons waiting for their order must be available on the property where the mobile food unit is located.

6. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than 6 inches from the exterior of the unit. No freestanding signs, banners, flags, or similar items are allowed. Off premises signs directing patrons to the mobile food unit are prohibited.

7. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers and shall keep the area around the mobile food unit clear of litter and debris at all times.

8. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

**126.06 PERMIT FEES.** At the time of the submittal of a permit application, the applicant shall pay to the City the applicable permit fee. The fee schedule will be set by resolution and may be modified from time to time with approval by resolution of the Council.

**126.07 SUSPENSION OR REVOCATION PERMIT.** Any permit issued under the provisions of this chapter may be suspended or revoked by the City as follows:

1. Grounds. The permit may be suspended or revoked if it is found that;

A. The permit holder has made fraudulent statements in his/her application for the permit or in the conduct of his/her business.

B. The permit holder has violated this chapter or any other chapter of this Code or has otherwise conducted his/her business in an unlawful manner.

C. The permit holder has conducted his/her business in such a manner as to endanger the public welfare, safety, order, or morals.

D. The City has received and investigated three or more found complaints during the permitted period related to the manner in which the permit holder is conducting business.

2. Notice of Suspension or Renovation; Right of Appeal. The City shall cause notice of the permit revocation to be served in person by a City official or by mail to the permit holder’s local address, which notice shall specify the reason(s) for such action, at which time operations of the permit holder must cease within the corporate limits of the City. The permit holder may appeal the revocation of the permit to the Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the Council at least seven days prior to the meeting. The Council may affirm, modify, or reverse the decision to revoke the permit. If the permit is revoked, no refund of any permit fee paid shall be made. Upon the revocation of a permit, the permit holder is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the permit revocation is served in person or deposited in the U.S. Mail.

(Chapter 126 – Ord. 359 – Nov. 23 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

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| --- | --- |
| 135.01 Removal of Warning Devices | 135.07 Washing Vehicles |
| 135.02 Obstructing or Defacing | 135.08 Burning Prohibited |
| 135.03 Placing Debris On | 135.09 Excavations |
| 135.04 Playing In | 135.10 Property Owner’s Responsibility for Maintenance |
| 135.05 Traveling On Barricaded Street or Alley | 135.11 Failure to Maintain |
| 135.06 Use for Business Purposes | 135.12 Dumping of Snow |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected, or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store, or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
2. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
3. A statement of the purpose, for whom and by whom the excavation is to be made;
4. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
5. Date of commencement of the work and estimated completion date.
6. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
7. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.
8. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of $1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of $1,000.00 may be filed with the City.
9. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
10. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.
11. Property Damage - $50,000.00 per accident.
12. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
13. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.
14. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.
15. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
16. 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*.
17. Permit Fee. A permit fee of $15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of $15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained.

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.[[7]](#footnote-7)†

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the Business District it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

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CHAPTER 136

SIDEWALK REGULATIONS

|  |  |
| --- | --- |
| 136.01 Purpose | 136.12 Interference with Sidewalk Improvements |
| 136.02 Definitions | 136.13 Awnings |
| 136.03 Removal of Snow, Ice, and Accumulations | 136.14 Encroaching Steps |
| 136.04 Property Owner’s Responsibility for Maintenance | 136.15 Openings and Enclosures |
| 136.05 City May Order Repairs or Cleaning Costs | 136.16 Fires or Fuel on Sidewalks |
| 136.06 Liability of Abutting Owner | 136.17 Defacing |
| 136.07 Sidewalk Construction Ordered | 136.18 Debris on Sidewalks |
| 136.08 Permit Required | 136.19 Merchandise Display |
| 136.09 Sidewalk Standards | 136.20 Sales Stands |
| 136.10 Barricades and Warning Lights | 136.21 Special Assessments for Construction and Repair |
| 136.11 Failure to Repair or Barricade |  |

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
3. Vertical separations equal to three-fourths inch or more.
4. Horizontal separations equal to three-fourths inch or more.
5. Holes or depressions equal to three-fourths inch or more and at least four inches in diameter.
6. Spalling over 50 percent of a single square of the sidewalk with one or more depressions equal to one-half inch or more.
7. 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.
8. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
9. A sidewalk with any part thereof missing to the full depth.
10. A change from the design or construction grade equal to or greater than three-fourths inch per foot.
11. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
12. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
13. “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.
14. “Portland cement” means any type of cement except bituminous cement.
15. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
16. “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.
17. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.  The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks.  If a property owner does not remove snow, ice, or accumulations within 24 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.  The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

(Code of Iowa, Sec. 364.12[2b and e])

136.04 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE.  The abutting property owner shall 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 OR CLEANING COSTS. If the abutting property owner does not maintain sidewalks as required or removal of accumulations, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d and e])

136.06 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14 of the *Code of Iowa,* in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this chapter and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. 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 condition 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.

136.07 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)

136.08 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City and shall be accompanied by a permit fee of $0.00. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

136.09 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. 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:
6. 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.
7. 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.
8. Driveway areas shall be not less than six inches in thickness.
9. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
10. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
11. 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.
12. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
13. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
14. 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)

136.10 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.11 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner’s contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.12 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.13 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.

136.14 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.

136.15 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.

136.16 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.

136.17 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)

136.18 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])

136.19 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.

136.20 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

136.21 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The Council may assess the cost of initial construction, improvements, or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, Division IV, of the *Code of Iowa*.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

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| --- | --- |
| 137.01 Power to Vacate | 137.04 Findings Required |
| 137.02 Planning and Zoning Commission | 137.05 Disposal of Vacated Streets or Alleys |
| 137.03 Notice of Vacation Hearing | 137.06 Disposal by Gift Limited |

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] and 364.7[3])

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| **EDITOR’S NOTE** | | | |
| The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect. | | | |
| **ORDINANCE NO.** | **ADOPTED** | **ORDINANCE NO.** | **ADOPTED** |
| 344 | April 29, 2020 |  |  |
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CHAPTER 138

STREET GRADES

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| --- | --- |
| 138.01 Purpose and Definition | 138.03 Record Maintained |
| 138.02 Established Grades |  |

138.01 PURPOSE AND DEFINITION.  This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades.  As used herein, “grade” means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 ESTABLISHED GRADES. The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.03 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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| **EDITOR’S NOTE** | | | |
| The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect. | | | |
| **ORDINANCE NO.** | **ADOPTED** | **ORDINANCE NO.** | **ADOPTED** |
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CHAPTER 139

NAMING OF STREETS

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| 139.01 Naming New Streets | 139.04 Official Street Name Map |
| 139.02 Changing Name of Street | 139.05 Revision of Street Name Map |
| 139.03 Recording Street Names |  |

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: “This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Marcus, Iowa.”

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: “On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description),” which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

|  |  |
| --- | --- |
| 145.01 Enforcement Officer | 145.05 Conduct of Hearing |
| 145.02 General Definition of Unsafe | 145.06 Posting of Signs |
| 145.03 Unsafe Building | 145.07 Right to Demolish; Municipal Infraction |
| 145.04 Notice to Owner | 145.08 Costs |

145.01 ENFORCEMENT OFFICER. The Council is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that 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.[[8]](#footnote-8)†

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 MARCUS, IOWA.” Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

|  |  |
| --- | --- |
| 146.01 Definitions | 146.03 Foundation Requirements |
| 146.02 Conversion to Real Property | 146.04 Emergency and Temporary Parking |

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

**146.04 EMERGENCY AND TEMPORARY PARKING.** Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days. Such parking shall be subject to any prohibitions or regulations contained in other ordinances of the City.

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CHAPTER 147

PROPERTY MAINTENANCE CODE

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| --- | --- |
| 147.01 Property Maintenance Code Adopted | 147.05 Liability |
| 147.02 Sections Modified | 147.06 Notice |
| 147.03 Sections Amended | 147.07 Assignment |
| 147.04 Constitution |  |

147.01 PROPERTY MAINTENANCE CODE ADOPTED. That a certain document, three copies of which are on file in the office of the Clerk, being marked and designated as the *International Property Maintenance Code*, 2012 Edition, as published by the International Code Council, be and is hereby adopted for regulating and governing the conditions and maintenance of all property building and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said *International Property Maintenance Code,* 2012 Edition on file in the office of the Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions, and changes, if any, prescribed in Sections 147.02 and 147.03.

147.02 SECTIONS MODIFIED. The following sections are hereby revised:

Section 101.1. Insert: City of Marcus, Iowa

Section 103.5. Insert: (Appropriate Schedule)

Section 112.4. Insert: (Dollar amount in two locations)

Section 302.4. Insert: Eight inches

Section 304.14. Insert: (Dates in two locations)

Section 602.3. Insert: (Dates in two locations)

Section 602.4. Insert: (Dates in two locations)

147.03 SECTIONS AMENDED. The following sections are hereby deleted, modified, and amended as follows:

1. Delete Section 202 General Definitions, and replace with the following:

“202 General Definitions.

Anchored. Secured in a manner that provides positive connection.

[A] Approved. Acceptable to the Code Official.

Basement. That portion of a building which is partly or completely below grade.

Bathroom. A room containing plumbing fixtures including a bathtub or shower.

Bedroom. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

[A] Code Official. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

Condemn. To adjudge unfit for occupancy.

Cost of such demolition or emergency repairs. The costs shall include the actual costs of the demolition or repair of the structure, less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a Code Official, the governing body or board of appeals.

Detached. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

Deterioration. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

[BG] Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easement. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

Equipment support. Those structural members, or assemblies of members, or manufactured elements, including braces, frames, lugs, snuggers, hangers, or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

Exterior property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

[BE] Guard. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[BG] Habitable space. Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility spaces, and similar areas are not considered habitable spaces.

Historic building. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the keeper of the National Register of Historic Places, in the National Register of Historic Places.

2. Designated as historic under an applicable State or local law.

3. Certified as a contributing resource within a national register, or State, or locally designated historic district.

Housekeeping unit. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking, and eating which does not contain, within such a unit, a toilet, lavatory, and bathtub, or shower.

Imminent danger. A condition which could cause serious or life-threatening injury or death at any time.

Infestation. The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

Inoperable motor vehicle. A vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junk. Household items, specifically manufactured to be kept and used inside. This term also includes hand-crafted items which will deteriorate, gather mold, or otherwise become a nuisance if left out in the weather.

Junk vehicle. Any vehicle that remains on a property, without moving under its own power, for a period of at least 30 days.

[A] Labeled. Equipment, materials, or products to which have been affixed a label, seal, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material, or product meets identified standards or has been tested and found suitable for a specified purpose.

Let for occupancy or let. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise, or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of a contract for the sale of land.

Neglect. The lack of proper maintenance for a building or structure.

[A] Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any individual living or sleeping in a building or having possession of a space within a building.

Openable area. That part of a window, skylight or door which is available for unobstructed ventilation, and which opens directly to the outdoors.

[A] Owner. Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the State, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property buy a court.

Person. An individual, corporation, partnership, or any other group acting as a unit.

Pest elimination. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

[A] Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

[A] Public way. Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

Rooming house. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Rooming unit. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust, and other similar materials.

[BG] Sleeping unit. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Strict Liability offense. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

[A] Structure. That which is built, or constructed, or a portion thereof.

Tenant. A person, corporation, partnership, or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Toilet room. A room containing a water closet or urinal but not a bathtub or shower.

Ultimate deformation. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

[M] Ventilation. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Workmanlike. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

[Z] yard. An open space on the same lot with a structure.”

1. Delete Section 302.4 Weeds, and replace with the following:

“302.4 Weeds.

Premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, including volunteer or scrub trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.”

1. Delete Section 302.8 Motor Vehicles, and replace with the following:

“302.8 Motor Vehicles.

Except as provided for in other regulations, no inoperative vehicle, junk vehicle, or unlicensed motor vehicle shall be parked, kept, or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. No motor vehicle parts shall be stored on any premises, except inside an enclosed structure.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.”

1. Delete Section 304.1.1 Unsafe Conditions, and replace with the following:

“304.1.1 Unsafe Conditions.

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the State Building Code:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects, or the required strength;

2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

3. Structures or components thereof that have reached their limit State;

4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors, and skylights are not maintained, weather resistant or water tight;

5. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;

6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored, or are not capable of supporting all nominal loads and resisting all load effects;

7. Exterior walls that are not anchored to supporting and supported elements, or are not plumb and free of holes, cracks or breaks, and loose or rotting materials, are not properly anchored, or are not capable of supporting all nominal loads and resisting all load effects;

8. Roofing or roofing components that have defects that admit rain or, in the opinion of the Code Official have reached their useful limit, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue, or without proper anchorage, and incapable of supporting all nominal loads and resisting all load effects;

9. Flooring and flooring components with defects that affect serviceability of flooring components that show signs of deterioration or fatigue, are not properly anchored, or are incapable of supporting all nominal loads and resisting all load effects;

10. Veneer, cornices, belt courses, corbels, trim, wall facings, and similar decorative features not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

12. Exterior stairs, decks, porches, balconies, and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks, and similar appurtenances not structurally sound, or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.

2. Demolition of unsafe conditions shall be permitted where approved by the Code Official.”

1. Delete Section 308 Junk, Rubbish, and Garbage, and replace with the following:

“308 Junk, Rubbish, and Garbage.

308.1 Accumulation of junk, rubbish, or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of junk, rubbish, or garbage.

308.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

308.2.1 Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned, or stored on premises without first removing the doors.

308.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

308.3.1 Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each swelling unit; or an approved leakproof, covered outside garbage container.

308.3.2 Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-filling covers for the storage of such materials until removed from the premises for disposal.

308.4 Storage of junk. Every occupant of a structure shall store all junk inside an enclosed structure.”

147.04 CONSTITUTION. That is any section, subsection, sentence, clause, or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code of Ordinances. The City hereby declares that it would have passed this law, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, clause, and phrases be declared unconstitutional.

147.05 LIABILITY. That nothing in this legislation or in the *International Property Maintenance Code,* 2012 Edition hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any right acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 147.02 or 147.03; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this legislation.

147.06 NOTICE. The Clerk is hereby ordered and directed to cause this legislation to be published in a newspaper in general circulation and posted in City Hall.

147.07 ASSIGNMENT. That this law and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect immediately after the date of its final passage and adoption.[[9]](#footnote-9)†

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CHAPTER 150

BUILDING NUMBERING

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| 150.01 Definitions | 150.03 Building Numbering Plan |
| 150.02 Owner Requirements |  |

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

1. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and a half inches in height and of a contrasting color with their background.

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

1. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

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| 151.01 Definition | 151.05 Disease Control |
| 151.02 Planting Restrictions | 151.06 Inspection and Removal |
| 151.03 Duty To Trim Trees | 151.07 Application for Tree Planting Permit |
| 151.04 Trimming Trees To Be Supervised |  |

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c and e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased, or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant, or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

151.07 APPLICATION FOR TREE PLANTING PERMIT. A permit is required for the planting of trees in the street right-of-way (area between the sidewalk and the street). Application for said permit is provided by the City. The property owner should note that trees planted in the street right-of-way become the property of the City and could be excavated at any time if there is a need to repair buried utilities.

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CHAPTER 152

RESTRICTION ON PROPANE TANKS

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| 152.01 Purpose | 152.03 Permit Required |
| 152.02 Residential Placement Restricted |  |

152.01 PURPOSE. These rules are promulgated to reduce the danger to public health, safety, and welfare posed by propane (L.P.) tanks placed within the corporate limits of the City.

152.02 RESIDENTIAL PLACEMENT RESTRICTED. Propane (L.P.) tanks designed to hold over 100 pounds of liquid propane gas are prohibited in the residential areas of the City.

152.03 PERMIT REQUIRED. A permit will be required for all propane (L.P.) tanks designed to hold 100 pounds or more when Council permission is granted for temporary usage for construction or in commercial and/or industrial areas of the City.

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CHAPTER 165

ZONING REGULATIONS

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| 165.01 Title | 165.13 M-1 - Industrial District |
| 165.02 Purpose | 165.14 Fences |
| 165.03 Interpretation of Regulations | 165.15 Swimming Pools |
| 165.04 Definitions | 165.16 Building Permits |
| 165.05 Establishment of Districts; General Requirements | 165.17 Dog Kennel Restrictions |
| 165.06 Official Zoning Map | 165.18 Patios and Decks |
| 165.07 New Territory | 165.19 Off-Street Parking and Storage |
| 165.08 Application of Regulations Governing | 165.20 Non-Conforming Buildings and Uses |
| Zoning Districts | 165.21 Board of Adjustment |
| 165.09 A - Agriculture and Conservation Regulations | 165.22 Administration and Enforcement |
| 165.10 R-1/R-3 - Regulations for All Residential Districts | 165.23 Amendments |
| 165.11 CB - Central Business District | 165.24 Administrative Standards |
| 165.12 GB and HC - General Business District | 165.25 Schedule of Fees |
| and Highway Commercial District | 165.26 Violations and Penalties |

165.01 TITLE. The title of this chapter shall be the “Zoning Code” of the City of Marcus, Iowa.

165.02 PURPOSE. The purpose of this Zoning Code and the regulations contained therein is to regulate the use of land within the corporate limits of the City and to promote orderly growth of the community and to promote the health, morals, safety, and general welfare within the City. This chapter shall apply to all buildings and structures as well as the land and uses of the buildings and land within the City.

165.03 INTERPRETATION OF REGULATIONS. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements. Where this Code imposes a greater restriction than is imposed or required by other provisions of law or by other covenants, rules, regulations, or ordinances, the provisions of this Code shall control.

165.04 DEFINITIONS. For purposes of this Code, the following words and phrases shall have the following meaning:

1. Words beginning with “A”
2. “Accessory buildings and uses” means an accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Code) located on the same lot as, the use of the main building or principal use of the land. An accessory use is one which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Code) on the same lot as, the main use of the premises. When “accessory” is used in the text, it shall have the same meaning as “accessory use.”
3. “Agriculture” means the use of land for the purposes of growing the usual farm products, including vegetables, fruit, trees, and grains; pasturage; dairying; animal and poultry husbandry; and the necessary accessory uses for treating or storing the produce, provided that the operation of such accessory uses is secondary to that of the regular agricultural activities and provided that the above uses in said areas do not include commercial feedlots, hog confinement operations, or poultry feedlots.
4. “Alley” means a dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which is 20 feet or less in width.
5. “Apartment” means a room or suite of rooms in a multiple dwelling intended or designed for use as a residence by a single family.
6. “Automobile service stations” means any land, building, structure, or premises used for the sale, at retail, of motor vehicle fuels, oils, or accessories or for serving or lubricating motor vehicles or installing or repairing parts and accessories, but not included the repairing or replacing of bodies or fenders of motor vehicles, or painting of motor vehicles or operation of public garages.
7. Words beginning with “B”
8. “Basement” means that portion of a building between the floor and ceiling which is partly below and partly above grade, but so located that the average vertical distance from the grade to the floor below is equal to one-half or more of the vertical distance from the grade to the ceiling.
9. “Billboard” means all structures, regardless of the material used in the construction of the same, that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure is placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertises a business or attraction which is not carried on or manufactured in or upon the premises which said signs or billboards are located.
10. “Block” means the property abutting on one side of a street and lying within the nearest intercepting or intersecting streets or nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
11. “Board” means the Board of Adjustment of the City.
12. “Building” means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property, but not including signs or billboards. When a structure is divided in separate parts by unpierced walls extending from the ground up, each part is deemed a separate building.
13. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip, and gambrel roofs.
14. “Building permit” means a certificate issued by the Zoning Administrator or the Clerk permitting a contractor or builder to construct or reconstruct a building or structure.
15. Words beginning with “C”
16. “Childcare center” means any private agency, institution, establishment, or place which provides supplemental parental care or educational work, other than lodging overnight, for six or more unrelated children of preschool age, for compensation.
17. “Clinic, medical or dental” means a building or buildings in which physicians, dentists, or physicians and dentists and allied professional assistants are associated for the purpose of carrying on their profession.
18. “Conditional use” means a use which is not allowed in the district as a matter of right, but which is permitted upon findings of the Board that under the particular circumstances present, such use is in harmony with the principal permitted uses of the district. Allowable conditional uses are specifically listed under the district regulations. Uses not so listed shall not be allowed as conditional uses.
19. “Condominium” means an apartment house, the apartments, or dwelling units of which are individually owned, each owner receiving a recordable deed enabling the owner to sell, mortgage, exchange, etc. said owner’s unit independent of the owners of the other apartments in the building.
20. Words beginning with “D”
21. “Development” means any manmade change to improved or unimproved real estate, including, but not limited to buildings or other structures, filling, grading, paving, excavation, or landscaping operations.
22. “District” means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
23. “Driveway” means a driveway shall be considered to be that designated area to provide access from the street to a parking area, an attached or basement garage, carport, or detached garage, and shall be surfaced, free of grass and weeds and maintained with asphaltic concrete, brick, asphaltic macadam, crushed rock, or similar method approved by the Zoning Administrator.
24. “Dwelling” means any building or portion thereof, which is designed and used exclusively for residential purposes.
25. “Dwelling, one-family” means a building having accommodations for and occupied exclusively by one family or housekeeping unit.
26. “Dwelling, two-family” means a building designed for or occupied exclusively for residence purposes by two families or housekeeping unit living independently of each other.
27. “Dwelling, multi-family” means a building designed for or occupied exclusively for residence purposes by three or more families or housekeeping units living independently of each other.
28. Words beginning with “E”
29. “Easement” means a grant by the property owner to the public, a corporation, or any persons for the use of a tract of land for a specific purpose or purposes.
30. “Essential services” means the erection, construction, alteration, or maintenance by public utilities or governmental agencies of underground or overhead gas, electrical, communication, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, substations, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.
31. Words beginning with “F”
32. “Family” means one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that no such family shall contain over five persons not related by blood, adoption, or marriage.
33. “Farm” means an area of 10 acres or more, which is used for the growing of the usual farm products such as vegetables, fruits, trees and grain, and their storage on the farm as well as for the raising thereon of the usual farm poultry and farm animals. The term “farming” includes the operation of such an area for one or more of the above uses, including the necessary accessory uses and shall not include feedlots as hereinafter described, hog confinements, or poultry feedlots, which are banned within the City limits.
34. “Feedlots” means feedlots, confinements, buildings, or corrals in which four-legged animals are provided with feed, water, and maintenance.
35. “Filling station” means any building or premises used for the dispensing, sale, or offering for sale at retail of fuels or oil of which an attendant is used.
36. “Flammable liquids” means any liquid, which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of 80 degrees Fahrenheit.
37. Words beginning with “G”
38. “Garage, private” means an attached or detached accessory building for the storage of private passenger vehicles or recreational equipment with a capacity of not more than three single stalls per dwelling unit and where no repair facilities are maintained.
39. Words beginning with “H”
40. “Hard surface pads” means a hard surface pad shall be surfaced and maintained with asphaltic concrete, brick, asphaltic macadam, crushed rock, or similar material
41. “Historic structure” means any structure that is:

(1) Listed individually in the National Register of Historic Places, maintained by the Department of the Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

(2) 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;

(3) 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,

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either:

* + - 1. An approved state program as determined by the Secretary of the Interior, or
      2. Directly by the Secretary of the Interior in states without approved programs.

1. “Home Occupation” means an occupation or a profession conducted in a dwelling unit, which:

(1) Is customarily carried on in a dwelling unit, and

(2) Is carried on by a member of the family residing in the dwelling unit, and

(3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and

(4) Does not employ more than one person outside the immediate family, and

(5) Has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one exterior sign mounted flush with the face of the building, which sign shall not exceed three square feet in area, and

(6) Produces no offensive noises, vibration, smoke, dust, odors, heat, or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

1. Words beginning with “I”
2. Words beginning with “J”
3. “Junk yard” means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
4. Words beginning with “K”
5. Words beginning with “L”
6. “Lot” means for purpose of this Code a parcel of land of at least sufficient size to meet minimum zoning and subdivision requirements for use, coverage, and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street and may consist of: a single lot of record; a portion of a lot of record; a combination of complete lots of record and portions of lots of record or of portions of lots of records; a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code.
7. “Lot types” means:

(1) “Corner lot” is a lot located at the intersection of two or more streets.

(2) “Cul-de-sac lot” means a lot which is a part of the turning circle at the end of a cul-de-sac. “Interior lot” is a lot other than a corner lot with only one frontage on a street.

(3) “Double frontage lot” is a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two nonintersecting streets may be referred to as “through” lots.

(4) “Reversed corner lot” is a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

(5) “New lot” is a lot which has not been recorded in the office of the County Recorder prior to the adoption of these regulations.

1. Words beginning with “M”
2. “Motel” means one or more buildings containing guest rooms or suites with automobile or vehicle parking space serving said rooms or units, which building is designed and intended for the accommodation of automobile travelers designated as auto courts or motor lodges, but not trailer camps or havens.
3. “Motor vehicles” means automobiles, motorcycles, vans, pickup trucks, similar vehicles, and recreational vehicles.
4. Words beginning with “N”
5. “Nonconforming use” means the lawful use of a building or of land at the time of the enactment of these regulations or amendment thereto which does not conform to the regulations as to use for the district in which it is located.
6. “Nursing or assisted living home” means a building or structure for living accommodations and where skilled and intermediate nursing care as well as assisted living care is provided for invalids, infirmed, aged, convalescent, and physically or mentally disabled persons.
7. Words beginning with “O”
8. Words beginning with “P”
9. “Permit” means a zoning compliance permit issued by the Zoning Administrative, authorizing the use of land in the manner and purpose specified by these regulations.
10. “Porch, unenclosed” means a roofed projection, which has no more than 50 percent of each outside wall area enclosed by a building or siding material other than meshed screens.
11. “Poultry feedlots” means feedlots, buildings, or corrals in which poultry is provided with feed and water.
12. “Public notice” means the publication of the time and place of any public hearing, not less than four days nor more than 20 days prior to date of said hearing, in at least one newspaper having general circulation in the City.
13. Words beginning with “Q”
14. Words beginning with “R”
15. “Recreational vehicles” means bus campers, camper trailers, pickup campers, travel trailers, motor homes, snowmobiles, boats, trailers, and similar vehicles. No such recreational vehicle shall be used for living, sleeping, or housekeeping purposes while parked or stored as permitted by this section.
16. Words beginning with “S”
17. “Start of construction” means 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.
18. “Story” means that portion of a building contained between any floor and the next floor above it; or if there is no floor, then the space between the floor and the ceiling above it.
19. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half-story containing independent apartment or living quarters shall be counted as a full story.
20. “Street” means any public or private thoroughfare, other than an alley, which affords access to abutting property, including boulevard, highway, road, avenue, drive, or lane, which is a minimum of 20 feet wide and reserved for vehicles.
21. “Structures” means anything erected or constructed, the use of which requires location on the ground or attachment to something having location on the ground.
22. “Structural alterations” means any change except those required by law or ordinance in supporting members of a building, such as bearing walls, columns, beams, or girders, not including openings in bearing walls as permitted by existing ordinances.
23. “Swimming pool” means any body of water which has a minimum depth of 18 inches or more in an artificial or semi-artificial receptacle of permanent construction.
24. Words beginning with “T”
25. “Tourist home” means a dwelling in which overnight accommodations are provided for transient guests for compensation.
26. “Townhouse” or “row house” means a type of one-family dwelling where common walls are used on both sides of the structure for economy. The shape tends to be narrow and deep to maximize the number of units in a row. A townhouse and the lot upon which it is situated shall be each individually owned, each owner receiving a recordable deed.
27. Words beginning with “U”
28. Words beginning with “V”
29. “Variance” means a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. As used in this Code, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district or because of conditions created by the landowner.
30. Words beginning with “W”
31. Words beginning with “X”
32. Words beginning with “Y”
33. “Yard” means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward excepting as otherwise provided herein.
34. “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 line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terrace, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
35. “Yard, rear” means a yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projections other than steps, unenclosed porches, or entranceways.
36. “Yard, side” means a yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard, and being the minimum horizontal distance between side lot line and side of the main buildings or any projections thereof.
37. Words beginning with “Z”
38. “Zoning Administrator” means the individual appointed by the Council and charged with the responsibility of enforcing this Code.

165.05 ESTABLISHMENT OF DISTRICTS; GENERAL REQUIREMENTS.

1. For the purpose of this Code the City is hereby divided into the following five primary use districts to be known and identified as follows:
2. A - Agricultural and Conservation District.
3. CB - Central Business District.
4. GB and HC - General Business and Highway Commercial District.
5. M-1 - Industrial District.
6. R-1/R-3 - All Residential District.

The boundaries of these districts are shown on the “Zoning Map” which accompanies and is made part of this chapter. The current original of this map is on file at City Hall, and said map and all the information shown thereon shall have the same force and effect as if fully set forth or described herein.

1. No building shall be erected, converted, enlarged, moved, or structurally altered, nor shall any building or premises be used for any purpose other than those permitted in the district in which such building or premises is located. No building shall be erected, enlarged, moved or structurally altered except in conformity with the height, yard, area per family, parking, and other regulations prescribed herein for the district in which such lot is located; every part of a required yard shall be open to the sky and unobstructed, except as hereinafter provided, and no yard or lot area shall be reduced so as to be smaller than the applicable district requirements.
2. Every building hereafter erected or structurally altered shall be located on a lot as defined in this chapter and, except as otherwise provided in this chapter, in no case shall more than one residential building be located on a lot. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part.
3. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.
4. Public improvements shall not be subject to the provisions of this chapter. The City may, in its discretion, place public improvements at any location, irrespective of this chapter, which it deems is in the best interest of the City and its citizens.

165.06 OFFICIAL ZONING MAP. The boundaries of the five districts as established in this Zoning Code are shown upon the Official Zoning Map which shall be identified by the signature of the Mayor attested by the Clerk under the following words: “This is to certify that this is the Official Zoning Map referred to in Section 165.06 of Zoning Ordinance of the City of Marcus, Iowa” together with the date on which the ordinance was adopted. The Official Zoning Map together with all explanatory matter thereon are hereby adopted by reference, and incorporated into and made part of this Zoning Code. If in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other matter portrayed in the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the Council and entered on the map. No changes of any nature shall be made on the Official Zoning Map or matter shown therein except in conformity with the procedures set forth in this Zoning Code. Regardless of the existence of purported copies of the Official Zoning Map that may from time to time be made or published, the Official Zoning Map, together with amending ordinances, shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the City.

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| **EDITOR’S NOTE** | | | |
| The Official Zoning Map adopted in 2014, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. 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** |
| 355 | 11-24-22 |  |  |
| 356 | 11-14-22 |  |  |

[The next page is 1339]

165.07 NEW TERRITORY. All territory which may hereafter be annexed to the City shall automatically be classed as lying and being in the district classification that is most similar to the County zoning classification previously assigned to the property until such classification shall have been changed by amendment to the Zoning Regulations as provided by law.

165.08 APPLICATION OF REGULATIONS GOVERNING ZONING DISTRICTS. The regulations set by this Zoning Code within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building or other structure shall hereafter be erected or altered:
2. To exceed the height;
3. To accommodate or house a greater number of families;
4. To occupy a greater percentage of lot area;
5. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner contrary to the provisions of this Code.
6. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
7. No yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements established by the Zoning Code.

165.09 A - AGRICULTURE AND CONSERVATION REGULATIONS.

1. Purpose. The purpose of this district is to preserve the continued agricultural use of land in certain areas so designated that are not expected to be developed for urban usage in the immediate future. A change of zoning from District A to any other classification shall be done in accordance with procedures established under this Zoning Code.
2. Principal Permitted Uses. The following uses of structures or land are permitted in District A:
3. Agriculture and the usual agriculture buildings and structures, but not including commercial feedlots, hog, and poultry confinements, as well as commercial grain storage and grain drying facilities, all of which are expressly barred from this district.
4. One and two-family dwellings with accessory buildings.
5. Essential services public utilities.
6. Publicly owned parks, fairgrounds, playgrounds, as well as public and private forests, wildlife preserves and similar conservation areas.
7. Nurseries, greenhouses, and truck gardens.
8. Private non-commercial recreation areas and centers including golf courses and tennis courts, but specifically not including automotive racetracks, horse race tracks, mini golf courses, gun clubs, skeet shooting ranges, archery ranges, and similar use areas.
9. Cemeteries including necessary expansion of existing cemeteries in said community.
10. Other accessory uses and buildings customarily appurtenant to a permitted use.
11. Conditional Uses. The following uses may be permitted in the District A subject to approval by the Board of Adjustment after notice of public hearing:
12. Livestock. With regard to cattle, there will be a limitation to one head with calf per acre, grazing only, with no feedlots or confinements.
13. Prohibited Uses. The raising and feeding of hogs, poultry, or any other type of livestock in said district is specifically prohibited.
14. Space Limits. The space limits for the District A are as follows:
15. Minimum lot area - 1 acre (43,560 square feet)
16. Maximum height of building - 35 feet
17. Minimum front yard - 30 feet
18. Minimum rear yard - 20 feet
19. Minimum side yard - 10 feet
20. Minimum side yard at corner - 25 feet
21. Maximum ground coverage including accessory buildings - 10 percent.
22. Parking. Off-street parking space shall be provided for all uses established in this district.
23. Kennels for raising, breeding, and boarding of dogs or other small animals; providing that all buildings, including exercise runways, be at least 200 feet from all property lines.
24. Miscellaneous Provisions. Only one building for living purposes shall be permitted on one zoning lot except as otherwise provided herein.

[The next page is 1343]

165.10 R-1/R-3 - REGULATIONS FOR ALL RESIDENTIAL DISTRICTS.

1. Purpose. The R-1/R-3 District is intended and designated to regulate and control all properties located in the residential districts of the City.
2. Principal Permitted Uses. This district is intended and designed to allow and permit single and multiple family dwellings along with certain other low-density uses in the residential district known and identified as R-1/R-3 in the City.
3. One- and two-family dwellings.
4. Multiple dwellings including condominiums, townhouses or row houses, public and private schools.
5. Churches, church and parish halls, rectories, and other structures of a religious, educational, or philanthropic nature including public libraries and museums.
6. Public parks, playgrounds, or other public recreational areas.
7. Small home occupation or businesses that are customarily carried on in a dwelling unit entirely within that unit by a member of the family and that in all respects meets the criteria for home occupation usage as defined in this Zoning Code.
8. Essential services.
9. Accessory buildings, including a private garage, either separate or a part of the main building. Such accessory buildings shall not be used as dwellings.
10. Temporary buildings used incident to construction work and shall be removed upon abandonment or completion of construction.
11. No cellar or basement home shall be occupied as living quarters.
12. Community swimming pool, not closer than 100 feet to nearest dwelling unit, enclosed by fence five feet high.
13. Private swimming pool and tennis courts enclosed by fencing which is at least five feet high.
14. Permitted Accessory Uses. The following accessory uses are permitted in the R-1/R-3 District:
15. Home occupations or businesses including child care centers as defined herein.
16. The parking of one travel trailer or camping trailer shall be permitted in the front yard for a period not to exceed 30 days.
17. Real estate lease or sales signs not over four square feet in area relating to the property on which the sign is located. Such sign shall be not closer to the curb than 15 feet.
18. Professional or business service sign not to exceed three square feet in area identifying the premises and occupant.
19. Other accessory uses customarily and normally found to be appurtenant to uses permitted in this district.
20. Rental of sleeping rooms to two individuals not members of the family of the occupant of the dwelling. No signs advertising the availability of such rooms shall be displayed.
21. Bulk or Space Regulations. The following minimum references shall be observed by all units in the residential districts as follows:
22. New lots:

(1) Minimum lot area - 8,000 square feet.

(2) Minimum width of lot - 80 feet average.

(3) Maximum height of building - 35 feet or two and one-half stories.

(4) Minimum front yard - 30 feet.

(5) Minimum rear yard - 20 feet.

(6) Minimum side yard - 10 feet.

(7) Minimum side yard at street comer - 25 feet.

(8) Maximum ground coverage including accessory buildings – 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on combined size of the lots.

(9) Minimum width of building - 20 feet.

(10) Minimum length of building - 20 feet.

(11) Minimum square footage of building - 600 feet.

1. Existing Lots; Vacant or the restoration of an occupied lot.

(1) Minimum lot area - 5,000 square feet.

(2) Minimum width of lot - 50 feet.

(3) Maximum height of building - 35 feet or two and one-half stories.

(4) Minimum front yard - setback yard depth on new or altered buildings shall conform to the average setback of existing buildings.

(5) Minimum rear yard - 10 feet, except when:

* + - 1. A garage is to be entered directly from an alley in a perpendicular or nearly perpendicular manner, the garage setback shall be 20 feet; and
      2. An existing accessory (non-conforming) structure that does not comply with the 10-foot minimum rear yard requirement is to be utilizing the same footprint, then the minimum rear yard may be reduced to five feet, provided that entry from an alley is prohibited.

(6) Minimum side yard - seven feet. If an existing structure that does not comply with the seven-foot minimum side yard is to be replaced, then the minimum side yard may be reduced to its current dimensions.

(7) Minimum side yard at street comer - 15 feet.

(8) Maximum ground coverage including accessory buildings - 40 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.

(9) Minimum width of building - 20 feet.

(10) Minimum length of building - 20 feet.

(11) Minimum square footage of building - 600 feet.

1. Accessory Use.

(1) Minimum front yard - 30 feet. No accessory building may be erected in any required front yard.

(2) Minimum rear yard - 10 feet. If a garage is entered directly from an alley in a perpendicular or nearly perpendicular manner, the garage setback shall be 20 feet from the rear lot line.

(3) Minimum side yard - 5 feet.

(4) Minimum side yard at street corner - 15 feet.

(5) Accessory buildings located in the rear or side yard shall not exceed 30 percent of the square footage of the rear yard, which is measured from the back plane of the house to the rear property line. The aggregate of all accessory buildings shall not exceed 1,008 square feet.

(6) The maximum height of any accessory building shall equal the height of the house or measure 18 feet from the floor to the peak, whichever is less.

(7) Accessory buildings over 10 x 12 feet must be sided with material similar to that on the principal structure. Roof pitch and material should also be similar to the principal structure.

(8) No accessory building(s) may be placed upon any lot before a principal structure is constructed.

1. Maximum height for this district shall be 35 feet or two and one-half stories, except for the following:

(1) Water tanks and utility poles.

(2) Church steeples.

(3) Television antennas.

(4) Flagpoles.

(5) All other uses, which are not used for human habitation.

[The next page is 1349]

165.11 CB - CENTRAL BUSINESS DISTRICT.

1. Purpose. The CB - Central Business District is intended and designed for business, professions, and occupations which are located in the Central Business District and require off-street parking areas and loading spaces.
2. Principle Permitted Uses. A building or premises located in said district shall be only used for the following purposes:
3. Agricultural production, feed, and supply store.
4. Antique shops.
5. Apparel and computer screen-printing.
6. Automobile accessory store.
7. Automobile service stations.
8. Automobile, truck, and motorcycle establishments for the display, rental and sales of those items including sale lots and including as incidental to these major uses all repairs in connection with their own or customers’ vehicles.
9. Automobile and vehicular body and fender repairs and restoration businesses.
10. Banks or other similar financial institutions.
11. Bowling alley or billiard parlor.
12. Business or commercial schools.
13. Commercial elevators and warehouses.
14. Drugstores and pharmacies.
15. Florist, gift, and hobby shops.
16. Grocery stores including supermarkets or meat markets.
17. Legal, accounting, and bookkeeping services.
18. Lumberyard, home furnishing display business, home supply store, hardware store, retail merchandising, and warehouses.
19. Medical, dental, osteopathic, chiropractic, and optometry clinics and similar professional services.
20. Mortuary and funeral parlor.
21. Municipal services including community center, public library, senior center, City Hall, police, and fire station.
22. Newspaper, printing, photographic, art studio, laundry or dry cleaning receiving station, and other uses of similar character.
23. Office uses.
24. Personal services including barbershops, beauty salons, tanning salons, massage therapy, and professional cleaning services.
25. Real estate and insurance service offices.
26. Restaurants, cafes, and delicatessens.
27. Retail stores of all kinds that sell and convey clothing, soft goods, and consumer products of all kinds.
28. Taverns and bars including incorporated food service establishments.
29. United States post office.
30. Second and upper floor dwelling units of commercial buildings. The lower or street level of said building must be used exclusively for one of the permitted business or commercial uses as permitted in said district.
31. Combinations of all of the above permitted uses.
32. Farm supplies and feed stores.
33. Business offices for building trades including general contractors, plumbers, and electricians.
34. Lawn care and snow removal businesses.
35. Parking, storage garages, and buildings.
36. Conditional Uses. Fire stations, garages, filling stations, and convenience stores upon recommendation of the Planning and Zoning Commission and approval of the Council and subject to such conditions and safeguards as deemed appropriate by said Council and upon receiving of a permit therefore.
37. Space or Bulk Limits. The following space limits shall apply to the Central Business District:
38. Minimum lot area of business - no regulation.
39. Minimum lot area for residential structures or mixed business and residential structures in the CB District - shall remain the same as currently exists for all existing residential structures or mixed business/residential structures or any replacements thereof.
40. Minimum width of lot - as currently platted.
41. Maximum height of building - no regulation.
42. Minimum front yard - no regulation.
43. Minimum rear yard - no regulation.
44. Minimum side yard - no regulation.
45. Minimum side yard and street corner - no regulation.
46. Maximum ground coverage of building or structure - 100 percent.

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165.12 GB AND HC - GENERAL BUSINESS DISTRICT AND HIGHWAY COMMERCIAL DISTRICT.

1. Purpose. The GB – General Business District is intended and designed for business, professions, and occupation which are located in the General Business District and require off-street parking areas and loading spaces. The HC – Highway Commercial District is intended and designed for commercial businesses, professions, and occupations located along a significant or highway thoroughfare and requires off-street parking and loading areas
2. Permitted Accessory Uses.
3. Any and all conditional uses permitted and allowed in the Central Business District Section 165.11(A-GG).
4. Any exterior or roof signs attached to the principle building provided that such attached sign shall not project more than five feet above the roofline of the building.
5. One free standing or post sign referring only to the specific enterprise or the use of the products or business conducted on the premises which may be erected or utilized in the front of said enterprise abutting of the public street or highway, provided however:

(1) That such sign shall not have a surface area in excess of 100 square feet on any one side and not more than two sides of said sign shall be used for advertising or identification purposes;

(2) The bottom of the surface area of such sign shall not be less than 12 feet above the ground surface on which it is erected;

(3) Fuel oil storage tanks are placed underground;

(4) No premises are used for the bulk storage of oils, petroleum, or similar flammable liquids and chemicals or for the storage of explosives.

1. Bulk Regulations.
2. The following minimum requirements shall be observed;

(1) Lot area: no regulations;

(2) Lot width: same as plotted

(3) Front yard or frontal parking area: 20 feet;

(4) Side yards or area: 10 feet;

(5) Rear yard: 10 feet;

(6) Maximum height: 50 feet with the exception of free standing advertising signs, communication towers or antennas, and essential service towers or structures utilized by any governmental agency;

(7) Maximum number of stories: three stories.

1. Off-Street Parking and Loading. All businesses located in the Highway Commercial District shall provide or furnish off-street parking for vehicles utilizing said business, or when applicable, shall provide off-street loading or dock facilities.

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165.13 M-1 - INDUSTRIAL DISTRICT.

1. Purpose. The M-I - Industrial District is intended primarily for the conduct of manufacturing, assembling, and fabrication. It is designed to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards. The uses permitted in this district make it most desirable that they be separated from residential uses.
2. Principle Permitted Uses. Buildings or improvements on the premises located in said Industrial District shall be used for the following designated purposes:
3. Any use permitted in the Highway Commercial District Section 165.12;
4. The manufacturing, assembling and processing of articles of merchandise prepared from such materials as cloth, wood, fiber, paper, or other similar materials;
5. Farm equipment, auto repair businesses, and metal repair shops including blacksmith and welding repair facilities;
6. Warehouses, storage sheds, and any essential services facilities;
7. Truck storage or terminal yard including petroleum storage facilities;
8. Manufacturing and assembly of farm equipment, appliances, and similar devices;
9. Communication towers and facilities;
10. Manufacturers and installers of concrete products, farm, and residential tile products and other related building and equipment sales, facilities and businesses.
11. Permitted Accessory Uses. Any accessory uses customarily accessory and incidental to a permitted principal use
12. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, vibrations, refuse matter, or water-carried waste.
13. Physical Appearance. All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily waste of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street.
14. Fire Hazard. No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazard. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels, and welding gases when handled in accordance with the City Code.
15. Noise. No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness.
16. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, water course or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
17. Air Contaminants. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantities as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation, or property.
18. Glare and Heat. All glare, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the property line. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.
19. Bulk Regulations.
20. The following minimum requirements shall be observed subject to the modifications contained in Section 165.14(4)(A-F):

(1) Lot Area: No minimum.

(2) Lot Width: No minimum.

(3) Front Yard: 30 feet. The front yard shall be measured from the street right-of-way line.

(4) Side Yard: None required, unless adjacent to an “R-1” - “R-3” District in which case, not less than 25 feet.

(5) Rear Yard: 40 feet, unless the rear lot line adjoins a railroad right­ of-way, in which case, none required.

(6) Maximum Height: No limitations.

(7) Maximum Number of Stories: No limitations.

1. Off-Street Parking and Loading. All businesses or occupants located in the Industrial District shall provide adequate off- street parking for vehicles or equipment utilizing their respective businesses, and where applicable, shall also provide off-street loading docks and/or facilities.

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165.14 FENCES. The construction or erection of fences in either the R-1 or R-3 Districts are considered improvements made to the property and are specifically made subject to this Zoning Code as set forth in the following specific regulations:

1. Fences. Fences are allowed on the property line, provided the property owner has thorough knowledge of the location of the property line. The City recommends that the fence be set back far enough to allow for maintenance of the fence and surrounding property.:
2. Fences shall be allowed on the side and rear yards of the property as long as they are set back two feet from the established property line. The two feet set back shall be mandatory on all fences unless the adjoining or abutting property holder on the side yard consents or agrees in writing to locating of the abutting side yard fence on the boundary line. This agreement allowing this exception must be clearly consensual between the abutting property owners and filed with the Zoning Administrator before the permit is issued.
3. No fence shall be permitted on the front yard of any property. The front yard is defined to include the area extending from a line from the front of the residential structure, excluding steps into the residence, to the City street.
4. If there is an existing fence on the boundary of any property, no new fence will be permitted or allowed unless there is at least a five foot set back from the existing fence and unless the new fence complies with the other provisions of this Code.
5. The maximum height of a fence as defined herein in a side yard where there is no adjacent street shall be six feet.
6. The maximum height of a fence adjacent to a street in a side or rear yard shall not exceed four feet.
7. A fence adjacent to an alley shall be allowed a maximum height of four feet.
8. The attractive or finishing side of the fence shall be constructed so as to face toward the adjoining property owner, City street or alley.
9. The application for the building permit shall set forth clearly the type of materials to be used in the construction of the fence and said materials shall be of high quality such as wood, vinyl, or other similar materials that would be reasonably attractive and would not detract from the surrounding neighborhood. Certain materials such as woven wire, barbed wire, and cattle or hog panels shall not be permitted in the construction of any fence.
10. Commercial or Industrial Fences. The maximum height on any fence located on a commercial or industrial zoned lot shall be six feet unless a higher fence is mandated by either federal or State law for security or other reasons. However, no fence in any commercial or industrial zoning district shall exceed 10 feet in height.

165.15 SWIMMING POOLS. Any private swimming pool constructed or erected shall require a building permit and shall be enclosed by a fence that meets the requirements of Section 165.15 and shall be at least five feet high.

165.16 BUILDING PERMITS. All building permits allowed under this Code shall be issued by the Zoning Administrator of the City who will conduct an inspection of the premises to see that there is no variance from the regulations in the actual construction permitted.

165.17 DOG KENNEL RESTRICTIONS. Under no circumstances shall a dog kennel or other pet enclosure be constructed either adjoining or within eight feet of any fence permitted by this Code.

165.18 PATIOS AND DECKS. Patios and decks shall be allowed in all residential districts. Building permits shall be required for all patios and decks, except those with a deck height of less than two feet above ground level. All patios and decks shall comply with front, rear, and side yard requirements.

165.19 OFF-STREET PARKING AND STORAGE. There shall be provided at the time any new dwelling, building, or structure is erected spaces open to the public at no charge as hereinafter indicated.

1. General Provisions.
2. All open parking areas including driveways shall be surfaced with durable, dust-proof surface consisting of concrete, bituminous concrete, asphalt, or other similar material and shall be maintained in a usable dust-proof condition and graded and drained to dispose of all surface water.
3. No vehicles including automobiles, pickup trucks, motorcycles, snowmobiles, boats, motor homes, campers, tractors, farm machinery, or equipment shall be stored or parked in any front, side, or rear yard on any premises for any period in excess of 30 days. Any such vehicles as described herein must be stored or parked, as the case may be, in garages or other accessory buildings located on the premises or elsewhere.
4. Vehicles as defined above in 165.04(13)(B) shall not include gooseneck or 21-foot trailers which shall not in any event be parked for any period of time on any front, side, or back yard.
5. All buildings and structures erected and all uses of land in all districts established after the effective date of this Zoning Code shall provide accessory parking and loading facilities as required under this section, unless a building permit has been issued and construction has started at least two months prior to the effective date of this Zoning Code.
6. All off-street parking spaces required by this regulation shall be located on the same zone lot of the use it serves.
7. Owners of two or more parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
8. All yard area except the required front yard for residential uses may be used for off­ street parking.
9. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be filled, shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.
10. Motor Vehicle Parking and Storage. Motor vehicle parking and storage is not permitted in any yard in an R-1/R-3 and GB or HC Zoning District, except as provided in this section.
11. Sidewalks. No parked motor vehicle shall obstruct a public sidewalk. If no public sidewalk exists, then no motor vehicle shall be parked closer than five feet to the street surface.
12. Driveways. Motor vehicle parking and storage is not permitted in any yard in an R-1/R-3 and GB or HC Zoning District. All motor vehicle(s) must be parked or stored on a driveway, carport, hard surface pad, or enclosed structure.
13. Side and Rear Yard Parking. No more than two motor vehicles may be parked or stored in any side yard or rear yard, and such motor vehicle(s) must be parked or stored on a driveway, carport, hard surface pad, or enclosed structure.
14. Hard Surface Pad Permit. The installation of a new hard surface pad as defined in Section 165.04(8)(A) shall be considered a new structure and shall require the issuance of a building permit from the Zoning Administrator prior to construction.

165.20 NON-CONFORMING BUILDINGS AND USES. Where a structure or building including accessory buildings exists at the effective date of this Zoning Code or any amendment thereto that could not be built under the terms of this Zoning Code by reason of restrictions on area, lot coverage, other characteristics of the structure, or the location of the lot, such structure may be continued in its present location as long as it remains otherwise lawful, subject to the following provisions:

1. Structural Alterations. No structural alterations, repairs or improvements shall be made to any such non-conforming building or structure, which in any way increases its non-conforming use. This provision shall not in any way be construed to prohibit maintenance or repairs necessary to improve the existing structure or keep it in sound condition.
2. Repair or Reconstruction. If a building or structure be less than 90 percent destroyed above the foundation it may be reconstructed or repaired and used as before the incident, provided that such reconstruction is commenced within one year from the date of the incident and that it be built of like or similar materials.
3. Extension. The non-conforming use of a building or structure may be extended throughout all parts of said building which were manifestly arranged or designed therefore prior to the adoption of this Zoning Code.
4. Abandonment. Whenever non-conforming use of a structure, or structure and land in combination, has been discontinued or abandoned for a period of two years, the future use of said structure or land shall thereafter conform with the provisions of this Zoning Code.
5. Unauthorized Non-Conformities. Any use of land, use of structures or structures in existence at the time of the adoption of this Zoning Code which are not grandfathered in as provided herein, shall not be authorized to continue its non-conforming use or status pursuant to this Zoning Code or any amendments thereto.
6. Required Repairs. Nothing in this Zoning Code or any amendments thereto shall be deemed to prevent the restoration or repair to a safe condition of any building or part thereof declared or found to be unsafe by any legally authorized official charged with protecting the public’s safety.
7. Interpretation. Whether a non-conforming use exists shall be a question of fact and shall be decided by the Board of Adjustment after a public notice and hearing and in accordance with the rules of the Board.

165.21 BOARD OF ADJUSTMENT.

1. Board Established. A Board of Adjustment is hereby established. The Board of Adjustment shall consist of five members appointed by the Mayor or specifically approved by the Council. Each of the members shall be appointed for a term of five years, excepting that when the Board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. The Board shall not carry out its business without having three members present. Members of the Board shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the Mayor and Council upon written charges and after public hearing, vacancies on the Board shall be filled for the unexpired term of any member whose term becomes vacant.
2. Rules, Meetings, and General Procedure. The Board shall adopt rules in accordance with the provisions of this Zoning Code. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in the chairperson’s absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of the proceedings, showing the vote of each member upon each question, or if absent or abstaining from voting, showing such fact; and shall keep records of the examinations and other public actions all of which shall be immediately filed in the office of the Clerk and shall be a public record.
3. Powers/Appeals. Appeals to the Board of Adjustment may be taken by any person, group or organization, public or private, Board of Adjustment, affected by any decision of the Zoning Administrator. Such appeal shall be taken within 10 days after the written decision is made by the Zoning Administrator by filing a notice of appeal with the Zoning Administrator and with the Board of Adjustment. Said notice of appeal shall specify the grounds for said appeal. The Zoning Administrator shall to whom the appeal is taken shall forthwith transmit to the Board all papers and documents constituting the record upon which the action appealed from is taken.
4. Hearings, Notice. Each session of the Board at which is exercised any of the powers granted under this section shall be a public meeting with public notice of said meeting and the business conducted is to be published in a newspaper of general circulation in the City at least one time five days prior to the meeting. Not less than seven days before said meeting, the Clerk shall send a copy of the notice of said meeting and the business to be conducted by ordinary mail to the owners of the property affected by the proposed change and to those owners within 200 feet of the affected property at the address of said owner as shown by the records of the County Auditor. If a property is shown to be in the name of more than one owner at the same mailing address, single notice may be mailed and addressed to all owners at that address. Failure to receive a mailed notice shall not be a defense to the proposed change. Before an appeal or request and variance or conditional use is filed with the Board the appellant shall pay a fee of $100.00 to be credited to the general fund of the City.
5. Powers/Variances. To authorize upon appeal in specific cases such variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Code would result in unnecessary hardship. A variance from the terms of this Zoning Code shall not be granted by the Board unless and until:
6. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land structures, or buildings in the same district.

(2) That literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Code.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures, or buildings in the same district.

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1. Notice of public hearing shall be given at least seven days in advance of public hearing. The owner of the property for which the variance is sought or his agent and any other affected property owners shall be notified by mail.
2. The public hearing shall be held. Any party may appear in person, by agent, or by attorney.
3. The Board shall make findings that the requirements of this section have been met by the applicant for a variance.
4. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
5. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Code, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Code.
7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Zoning Code in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Code in said district.
8. Powers/Conditional Uses.
9. General provisions. Allowable conditional uses may be permitted, enlarged, or altered upon application for Conditional Use Permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a Conditional Use Permit in accordance with the standards set forth herein with the intent and purpose of this Zoning Code. In granting a Conditional Use Permit, the Board of Adjustment will authorize the issuance of a Conditional Use Permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.
10. Application for Conditional Use Permit. A request for a Conditional Use Permit for a special use or modification of a conditional use may be initiated by a property owner or their authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by a site plan and other such plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee established in Section 165.26.
11. Meeting. Before issuance of any Conditional Use Permit, the Board of Adjustment will consider the application for the special use permit at a meeting held at the call of the Chairman within 30 days after the filing of the application.
12. Decisions. The concurring vote of three members of the Board of Adjustment shall be necessary to grant a Conditional Use Permit. No order of the Board of Adjustment granting a Conditional Use Permit shall be valid for a period longer than six months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six-month period and construction is commenced.
13. Standards. No Conditional Use Permit shall be granted by the Board of Adjustment unless such Board shall find:

(1) That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.

(2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, not substantially diminish and impair property values within the neighborhood.

(3) That the establishment of the special use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.

(4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

(5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.

(7) The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

(8) The use shall not include vibration, which is discernible without instruments on any adjoining lot or property.

(9) The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.

(10) The use shall not involve any pollution of the air by fly-ash dust vapors or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.

(11) The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.

(12) The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

(13) The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

1. Powers/Others. To issue permits and decide such matters as may be required of other sections of this Zoning Code.
2. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of this Zoning Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have powers of the administrative official from whom the appeal is taken.
3. Appeals from Decision of the Board of Adjustment. Any taxpayer, or any officer, department, board or bureau of the City or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

165.22 ADMINISTRATION AND ENFORCEMENT.

1. Zoning Administrator. There is hereby created the position of Zoning Administrator who shall be appointed by the Mayor. The Zoning Administrator shall administer and enforce the provisions of this Zoning Code and shall have the following powers and duties, in connection therewith.
2. It shall be the duty of the Zoning Administrator as designated by the Mayor with Council approval to administer and enforce the regulations contained herein.
3. No building shall be undertaken without a building permit as required by this section.
4. If the Zoning Administrator shall find that any of the provisions of this Zoning Code are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it. They shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, or structures or additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Zoning Code and the Council to insure compliance with or to prevent violation of its provisions.
5. Zoning/Building Permit and Certificate of Occupancy.
6. Authority. The Zoning Administrator, or their duly authorized delegate, shall have authority to issue building permits with Certificates of Occupancy, but only in accordance with the provisions of this Code.
7. Building/Zoning Permits and Certificates. It is necessary to obtain a building permit as provided herein from the Zoning Administrator before the following improvements are made to property in the City, to wit:

(1) No construction, reconstruction, or remodeling of any structure shall be commenced which would result in the alteration of any exterior dimension of such structure, any structural alteration of such structure or any alteration in the amount of off-street parking or loading required in conjunction with such structure unless the required permit is obtained.

(2) Any zoning certificate issued in conflict with the provisions of this title shall be null and void. In any case in which it is not clear whether or not a certificate of zoning compliance is required by this Code, the Zoning Administrator shall, on written request, issue an opinion as to whether or not a certificate is required.

(3) No fence shall be constructed within the R-1/R-3 Districts until application has been made and building permit issued complying with the provisions dealing with fences incorporated into this Zoning Code.

1. Application for Building Permit. Every application for a zoning certificate shall contain at least the following information and shall be accompanied by a non­refundable fee, established from time to time by the Council to help defray administrative costs, and by at least the following documents, unless any specifically required information or document is waived by the director of building inspection as not relevant or necessary to determine that all provisions of this title have been met in a particular case:

(1) The applicant’s name and address.

(2) A brief description of the construction, or alteration of land, requiring the issuance of a zoning certificate.

(3) Property boundary lines and dimensions of the property and any significant topographic or physical features of the property.

(4) Location, size, use, and dimensions of buildings, including height in stories and feet and minimum yard dimensions.

(5) Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and total lot coverage of all parking, loading, driveway, and aisle areas.

(6) Any other information that may be required by the Zoning Administrator to determine that the particular application is in compliance with all applicable performance standards, use limitations and other requirements of this Code.

1. Issuance of Permits. A zoning certificate shall be either issued or refused by the Zoning Administrator within three days after the receipt of an application therefore, or within such further period as may be agreed to by the applicant. One copy of all plans shall be returned to the applicant by the Zoning Administrator after such copy has been marked either as approved or disapproved and attested to the same by signature on such copy.
2. Period of Validity. A building permit shall become null and void one year after date of issuance unless within any such period construction, reconstruction, or remodeling has been substantially completed and is in use. A building permit for a fence shall become null and void and be rescinded unless the fence has been erected and is in use within said time period.
3. Certificate of Occupancy. Every application for a building permit shall be deemed to be an application for a Certificate of Occupancy.

165.23 AMENDMENTS. The Council may from time to time on its own motion or on petition, amend, supplement, or change the boundaries of the districts or the regulations or restrictions herein established. However, the regulation, restriction or boundary shall not become effective until after a public hearing in which the parties of interest and all citizens shall have an opportunity to be heard. Any proposed amendment, supplement, change, modification, or repeal shall first be submitted to the Planning and Zoning Commission for its recommendation and report. If the Planning and Zoning Commission or other appropriate board makes no report to the Council within 30 days after its submission, it shall be considered to have made a report approving the proposed amendment or change. After the Planning and Zoning Commission has approved the proposed change or after the 30 day period has lapsed without a proposal, the Council shall hold a public hearing in relation thereto, giving at least seven and no more than 20 days notice of the time and place of such hearing which notice shall first be published in a newspaper of general circulation in the City. In addition thereto, the Clerk shall send a copy of the proposed change or amendment by ordinary mail to the owners of the properties included in the proposed change and to those owners of properties immediately adjacent to the properties included in the proposed change extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots. If the property is shown to be in the name of more than one owner at the same address, a single notice may be mailed addressed to all owners at that address. Failure to receive a mailed notice is not a defense to the proposed change and no such proposed amendment or change shall become effective except by a favorable vote of three-fourths of the members of the Council.

1. Procedures. If the proposed amendment or change does not originate with the Council, an application or petition may be filed by any person, firm or corporation desiring that any amendment or change be made to this Zoning Code. Said application or petition shall be filed with the Clerk accompanied by a filing fee of $50.00 and said petition shall contain the following information:
2. The legal description, local address, and owner's name of the property to be re-zoned;
3. The present zoning classification of the affected property and the zoning classification being requested for the property or area;
4. The existing use and proposed use of the property or area; and
5. A map or diagram showing the area affected by the proposed amendment or change together with boundaries of the area to be re-zoned.

This is to include all property within 200 feet thereof, including streets, alleys, railroads and other physical features or landmarks. In case the petition for amendment or change of the boundaries and regulations herein contained or subsequently established shall have been denied by the Council, then no petition covering the same property or the same property and additional property shall be filed with or considered by the Council until one year shall have lapsed from the date of the filing of the first petition.

1. Fees. The filing fee for any petition to amend or change the regulations or boundaries established under this Zonin Code shall be in the sum of $100.00 if the petition is filed by any person, firm, or corporation. Said fee shall be due at the time the petition is filed. If the petition emanates from the Council and/or the Planning and Zoning Commission, they shall be exempt from the fee.

165.24 ADMINISTRATIVE STANDARDS.

1. Interpretation. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that if this chapter imposes a greater restriction, this chapter shall control.
2. Rules of Application. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this chapter, the following rules shall apply:
3. In cases where a boundary line is given a position within a street or alley or non­navigable stream, it shall be deemed to be in the center of the street, alley or stream; and if the actual location of such street, alley or stream varies slightly from the location as shown on the district map, then the actual location shall control.
4. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
5. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from the nearest rail of the designated track.
6. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of this chapter are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map.
7. In unsubdivided property, unless otherwise indicated, the district boundary line on the maps accompanying and made a part of this chapter shall be determined by the use of the scale contained on such map.

165.25 SCHEDULE OF FEES. The Council shall establish a schedule of fees and payment procedure for building permits, amendments to the zoning laws, appeals to the Board of Adjustment, as well as other matters pertaining to this Zoning Code. The schedule of fees as listed below or subsequently amended shall be posted or made available to all applicants or interested persons in the office of the Clerk; and said fees or charges may be altered or amended only by the Council. No permit, certificate, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses listed below have been paid in full, nor shall any action be taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

1. Building Permit Fees. Based on the estimated value of the structure or improvements as follows:
2. Below $25,000.00 $25.00
3. $25,001.00 to $50,000.00 $50.00
4. $50,001.00 to $75,000.00 $60.00
5. $75,001.00 to $100,000.00 $70.00
6. $100,001.00 to $1,000,000.00 $80.00
7. Over $1,000,000.00 $100.00
8. Fences $25.00
9. Zoning Ordinances and Amendments
10. Filing Fee for Change $100.00
11. Appeals – Board of Adjustment.
12. Variance $500.00
13. Conditional Use Permit.
14. Filing Fee $125.00

165.26 VIOLATIONS AND PENALTIES.

1. Enforcement. The Zoning Administrator or other employee or official of the City, who is vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform with the provisions of this chapter or any approved variance therefrom.
2. Complaints Regarding Violations. Whenever a violation of this Zoning Code occurs or is alleged to have occurred, any person may file a written complaint stating fully the causes and basis of said complaint with the Zoning Administrator. The Administrator shall properly record such complaint and investigate the same, and if justified, take action on the same as provided by this Zoning Code.
3. Violations. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Zoning Code, shall be in violation of the same. Each day such violation continues may constitute a separate offense.
4. Penalties for Violation. In case any building, fence or structure is erected, constructed, re­constructed, altered, repaired, converted or maintained, or any building, fence or land is used in violation of this chapter, the Zoning Administrator or other appropriate authority of the City may file a municipal infraction against the violator or may institute appropriate legal action or proceeding to prevent such unlawful construction, re-construction or renovation or use in order to restrain, correct or abate such violation or to prevent or stop the illegal conduction of business or use of the premises in question.

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 PURPOSE. The purpose of this chapter is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety, and general welfare of the citizens of the City.

(Code of Iowa, Sec. 354.1 and 364.1)

170.02 APPLICATION. Every owner who divides any original parcel of land, 40 acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations, July 1979, into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City or within two miles of the corporate limits of the City, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

170.03 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City, or within two miles of the corporate limits of the City, as recorded in the office of the County Recorder and filed with the County Auditor, as recorded in the office of the County Recorder and filed with the County Auditor, as provided in Section 354.9 of the *Code of Iowa*, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Zoning Code. Upon the approval of the final plat by the governing body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after 30 days, unless such plat has been duly recorded and evidence thereof filed with the Clerk within such 30 days.

(Code of Iowa, Sec. 354. 9)

170.04 DEFINITIONS. For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term “shall” is always mandatory, and the term “may” is permissive.

1. Words beginning with “A”
2. “Acquisition Plat” means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Code of Iowa, Sec. 354.2[1])

1. “Aliquot Part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one­quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2[2])

1. “Alley” means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
2. “Auditor’s Plat” means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.

(Code of Iowa, Sec. 354.2[3])

1. Words beginning with “B”
2. “Block” means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
3. “Building lines” means a line on a plat between which line and public right-of-way no building or structures may be erected.
4. Words beginning with “C”
5. “City Engineer” means the professional engineer registered in the State designated as City Engineer by the governing body or other hiring authority.
6. “Comprehensive Plan” means the general plan for the development of the community that may be titled Master plan, Comprehensive Plan, or some other title, which plan has been adopted by the governing body. Such “Comprehensive Plan” shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
7. “Conveyance” means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

1. “Cul-de-sac” means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
2. Words beginning with “D”
3. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.

(Code of Iowa, Sec. 354.2(6) and 355.1[2])

1. Words beginning with “E”
2. “Easement” means an authorization by a property owner for another to use a designated part of said owner’s property for a specified purpose.
3. Words beginning with “F”
4. “Flood hazard area” means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100-year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
5. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one foot.
6. “40-acre aliquot part” means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(7))

1. Words beginning with “G”
2. “Governing body” means the Council of the City.

(Code of Iowa, Sec. 354.2(8))

1. “Government lot” means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(9) and 355.1[3])

1. Words beginning with “H”
2. Words beginning with “I”
3. “Improvements” means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainageways, and other public works and appurtenances.
4. Words beginning with “J”
5. Words beginning with “K”
6. Words beginning with “L”
7. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(10))

1. “Lot, corner” means a lot situated at the intersection of two streets.
2. “Lot, double frontage” means any lot that is not a corner lot that abuts two streets.
3. Words beginning with “M”
4. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2[11])

1. Words beginning with “N”
2. Words beginning with “O”
3. “Official plat” means either an Auditor’s plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

1. “Original parcel” means 40 acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before July 1979.
2. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
3. Words beginning with “P”
4. “Parcel” means a part of a tract of land.

(Code of Iowa, Sec. 354.2[13])

1. “Performance bond” means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this Zoning Code, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Zoning Code.
2. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.

(Code of Iowa, Sec. 354.2[14])

1. “Planning commission” means the appointed commission designed by the governing body for the purpose of this Zoning Code, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.
2. “Plat” means a map drawing, or chart on which a subdivider' s plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.
3. “Plats officer” means the individual assigned the duty to administer this Zoning Code by the governing body or other appointing authority.
4. “Plat of survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Code of Iowa, Sec. 354.2(15) and 355.1[9])

1. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2[16])

1. Words beginning with “Q”
2. Words beginning with “R”
3. “Resubdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
4. Words beginning with “S”
5. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
6. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
7. “Street, collector” means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
8. “Street, local” means a street primarily designed to provide access to abutting property.
9. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
10. “Subdivision” means the accumulative effect of dividing an original lot, tract, or parcel of land, as of July 1979, into three or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date, July 1979, shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and 355.1[10])

1. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18)and355.1[11])

1. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

(Code of Iowa, Sec. 354.2(19) and 355.1[12])

1. Words beginning with “T”
2. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2[20])

1. Words beginning with “U”
2. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, and stormwater.
3. Words beginning with “V”
4. Words beginning with “W”
5. Words beginning with “X”
6. Words beginning with “Y”
7. Words beginning with “Z”

170.05 IMPROVEMENTS REQUIRED. The subdivider shall, at said subdivider’s expense, install and construct all improvements required by this Zoning Code. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City in Chapter 165 of this Code of Ordinances, and as shown on the approved preliminary plat.

170.06 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this Zoning Code. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

170.07 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare.

(Code of Iowa, Sec. 364.1)

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 governing body after receiving the report and recommendations of the City Engineer.
2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body 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 governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans with Disabilities Guidelines (ADAAG).
4. Sidewalks. Sidewalks shall be required. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer, and comply with the Americans with Disabilities Guidelines (ADAAG).
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 City Water Department standards, procedures, and supervision.
6. Sewers.
7. 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 as 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 governing body and the State Department of Health and the construction subject to the supervision of the Superintendent of public utilities.
8. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.
9. Adequate provisions shall be made for the disposal of stormwaters, subject to the approval of the governing body and to the supervision of the Superintendent of public utilities.

170.08 COMPLETION OF IMPROVEMENTS. Before the governing body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. 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.

170.09 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the governing body 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.

170.10 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to Existing Streets.
2. 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.
3. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
4. Acreage Subdivisions.
5. 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.
6. 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.
7. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
8. Local Streets.
9. Local streets shall be so planned as to discourage through traffic.
10. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than 500 feet and shall terminate with a turn-around, having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The right-of-way width of the straight portion of such streets shall be a minimum of 50 feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than 20 feet.
11. Frontage Streets.
12. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess 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.
13. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body 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. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
14. Half-Streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body 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.
15. Street Geometrics.
16. Street jogs with centerline offsets of less than 125 feet shall be avoided.
17. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
18. 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 governing body shall determine for special cases.
19. Intersections.
20. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
21. 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.
22. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.
23. 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 governing body.
24. Street Grades.
25. Street grades, wherever feasible, shall not exceed five percent, with due allowance for reasonable vertical curves.
26. No street grade shall be less than one-half of one percent.
27. Alleys.
28. Alleys shall be provided in commercial and industrial districts, except that the governing body 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.
29. The width of an alley shall be 20 feet.
30. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.
31. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the governing body.
32. Blocks.
33. No block may be more than 1,320 feet or less than 500 feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.
34. In blocks over 700 feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than 10 feet in width for use by pedestrians and/or as an easement for public utilities.
35. Lots.
36. The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
37. Minimum lot dimensions and sizes.

(1) Residential lots where not served by public sewer shall not be less than 80 feet wide nor less than 10,000 square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.

1. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.
2. 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.
3. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
4. Building Lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.
5. Easements.
6. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 10 feet wide.
7. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.
8. 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 governing body. The markers shall be of such material, size and length as may be approved by the governing body.

170.11 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the governing body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

170.12 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the Clerk. The conference should be attended by the Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner’s engineer and/or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

170.13 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

170.14 PRESENTATION TO PLANNING COMMISSION OR CITY COUNCIL. The subdivider may present the sketch plan to the governing body for review, prior to incurring significant costs preparing the preliminary or final plat.

170.15 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Any subdivision that contains not more than four lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.
2. Major Subdivision. Any subdivision that, in the opinion of the governing body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

170.16 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor’s plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

170.17 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the Clerk four 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, bearing 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 streetlights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords, and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes, and limitation.
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.

170.18 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer two copies of the preliminary plat to the City Engineer and two copies to the governing body.

170.19 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354. 8 of the *Code of Iowa* and the laws and regulations of the City, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City Engineer’s findings in duplicate to the governing body together with one copy of the plat received.

(Code of Iowa, Sec. 354.8)

170.20 ACTION BY THE GOVERNING BODY. The governing body shall, upon receiving the report of the City Engineer, as soon as possible, but not more than 30 days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within 30 days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional 60 days. It shall then set forth its recommendations in writing, whether of approval, modification, or disapproval.

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefore and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. If approved, the governing body shall express its approval as “Conditional Approval” and state the conditions of such approval, if any.
3. The action of the governing body shall be noted on two copies of the preliminary plat, referenced, and attached to any conditions determined. One copy shall be returned to the subdivider and the other copy retained by the governing body.
4. The “Conditional Approval” by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

170.21 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.

170.22 REFERRAL FINAL OF PLAT. The subdivider shall, within 12 months of the “Conditional Approval” of the preliminary plat by the governing body prepare and file four copies of the final plat and other required documents with the Clerk as hereafter set forth, and upon the subdivider’s 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 governing body. Upon receipt of the final plat and other required documents, the Clerk shall transmit two copies of the final plat to the governing body for its recommendations and approval. Except for a final plat for a minor subdivision or an auditor’s plat as set forth herein, no final plat shall be considered by the governing body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. At its discretion the governing body may refer the final plat to the City Engineer pursuant to the procedure established in Section 170.17.

(Code of Iowa, Sec. 354. 8 and 355. 8)

170.23 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of Chapter 355 of the *Code of Iowa*, and shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch with permanent ink on a reproducible tracing material. 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 signature and acknowledgement of the subdivision landowner and the subdivision land owner’s spouse.
6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the *Code of Iowa* by the professional engineer or land surveyor who drew the final plat.

170.24 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

(Code of Iowa, Sec. 354.6[2])

1. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

(Code of Iowa, Sec. 354.11[1])

1. A complete abstract of title and an attorney’s opinion showing that the fee title to the subdivision land is in the owner’s name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11[3])

1. A certificate from the County Treasurer that the subdivision land is free from taxes.

(Code of Iowa, Sec. 354. 11[5])

1. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics, or other liens of record in the Clerk’s office.
2. A certificate from the County Recorder that the title in fee is in the owner’s name and that it is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354. 11[2])

1. A certificate of dedication of streets and other public property.

(Code of Iowa, Sec. 354.11[I])

1. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
2. Resolution and certificate for approval by the governing body and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11[4])

1. 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.
2. A certificate by the Clerk 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 governing body 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.
3. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, of the *Code of Iowa*.

170.25 ACTION BY THE GOVERNING BODY. Upon receipt of the plat, but not more than 60 days following submission of the final plat to the Clerk as stated in Section 170.22 the governing body shall either approve or disapprove the final plat.

(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the governing body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this Zoning Code, the governing body shall accept the same.
3. The passage of a resolution by the governing body 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 before the City shall recognize the plat as being in full force and effect.

170.26 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Zoning Code would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the governing body may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this Zoning Code. Such variances and waivers may be granted only by the affirmative vote of three-fourths of the members of the governing body.

170.27 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this Zoning Code shall be issued unless the tract has been platted in accordance with this Zoning Code; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by this Zoning Code or additions or improvements to a main or accessory building already legally located upon said tract.

170.28 EXTRATERRITORIAL REVIEW AGREEMENT. The City may negotiate an extraterritorial review agreement between the City and the County for the standards and conditions applied by the City for review and approval of a subdivision as provided in Section 354.9 of the *Code of Iowa*. The City shall apply the 28E agreement standards and conditions for review and approval of a subdivision in the extraterritorial review area as established in Section 170.02. The City may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of the subdivision in the extraterritorial area. Such resolution shall be certified and recorded with the plat. Procedures for certifying approval of subdivisions in the extraterritorial area of the City shall be the same as those established for other subdivisions within the City unless waived by the governing body.

(Code of Iowa, Sec. 354.8 and 354. 9)

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**USE AND MAINTENANCE OF THE   
CODE OF ORDINANCES**

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES   
AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_\_\_\_\_\_, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ STREET**

BE IT ENACTED by the City Council of the City of \_\_\_\_\_\_\_\_\_\_, Iowa:

SECTION 1.  NEW SECTION. The Code of Ordinances of the City of \_\_\_\_\_\_\_\_\_\_, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16   PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. \_\_\_\_\_\_\_\_\_\_ Street, on the \_\_\_\_\_ side, from \_\_\_\_\_\_\_\_\_\_\_ Street to \_\_\_\_\_\_\_\_\_\_\_\_ Street.

SECTION 2.  REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3.  SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and approved this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Third Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_\_\_\_\_\_, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ STREET.**

BE IT ENACTED by the City Council of the City of \_\_\_\_\_\_\_\_\_\_, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of \_\_\_\_\_\_\_\_\_\_, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on \_\_\_\_\_\_\_\_\_\_\_\_\_ Street to stop at \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and approved this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Third Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify that the foregoing was published as Ordinance No.\_\_\_ on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. \_\_\_

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_\_\_\_\_\_, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of \_\_\_\_\_\_\_\_\_\_, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of \_\_\_\_\_\_\_\_\_\_, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dollars per \_\_\_\_\_\_\_\_\_\_.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and approved this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Third Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

ORDINANCES NOT CONTAINED IN THE   
CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. \_\_\_

**AN ORDINANCE VACATING *(INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED)* TO \_\_\_\_\_\_\_\_\_\_, IOWA**

Be It Enacted by the City Council of the City of \_\_\_\_\_\_\_\_\_\_, Iowa:

SECTION 1. The *(location or legal description of street or alley)* to \_\_\_\_\_\_\_\_\_\_, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and approved this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Third Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City of \_\_\_\_\_\_\_\_\_\_, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of \_\_\_\_\_\_\_\_\_\_, Iowa, will meet on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, constitutes a nuisance pursuant to Chapter             of the Code of Ordinances of \_\_\_\_\_\_\_\_\_\_, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City of \_\_\_\_\_\_\_\_\_\_, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(enforcement officer)

RESOLUTION AND ORDER   
REGARDING DANGEROUS BUILDING

BE IT RESOLVED, by the City Council of the City of \_\_\_\_\_\_\_\_\_\_, Iowa:

WHEREAS, notice has heretofore been served on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within \_\_\_ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within \_\_\_ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property 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 \_\_\_\_\_\_\_\_\_\_, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Street Address)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within \_\_\_\_\_\_ (\_\_\_\_) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The nearest public sewer line within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_\_) feet of the above described property is located

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City of \_\_\_\_\_\_\_\_\_\_, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Street Address)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Iowa

You are hereby notified that the City Council of \_\_\_\_\_\_\_\_\_\_, Iowa, will meet on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_\_ \_\_m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City of \_\_\_\_\_\_\_\_\_\_, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of \_\_\_\_\_\_\_\_\_\_, Iowa:

WHEREAS, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (Name of Property Owner)

through \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Agent,

(Agent’s Name or “None”)

to make connection of the property described as

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

to the public sanitary sewer located\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

within \_\_\_\_\_\_ (\_\_\_\_\_) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within \_\_\_\_\_\_ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property 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

1. † **EDITOR’S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3. [↑](#footnote-ref-1)
2. † **EDITOR’S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14. [↑](#footnote-ref-2)
3. † **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. [↑](#footnote-ref-3)
4. † **EDITOR’S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, Paragraph 5a, of the *Code of Iowa,* are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship. [↑](#footnote-ref-4)
5. † **EDITOR’S NOTE:** Ordinance No. 332, adopting a natural gas franchise for the City, was passed, and adopted on February 11, 2019. [↑](#footnote-ref-5)
6. † **EDITOR’S NOTE:** Ordinance No. 333, adopting a electric gas franchise for the City, was passed, and adopted on February 11, 2019. [↑](#footnote-ref-6)
7. † **EDITOR’S NOTE:** See also Section 136.04 relating to property owner’s responsibility for maintenance of sidewalks. [↑](#footnote-ref-7)
8. † **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. [↑](#footnote-ref-8)
9. † **EDITOR’S NOTE:** Ordinance No. 329, adopting the *International Property Maintenance Code,* 2012 Edition for the City, was passed, and adopted on September 10, 2018. [↑](#footnote-ref-9)