

**CODE OF ORDINANCES**

**OF THE**

**CITY OF**

**COLFAX, IOWA**

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

*Adopted February 18, 2021, by Ordinance No. 645*

## SUPPLEMENT RECORD

[illegible]



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# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title  
1.02 Definitions  
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1.04 Indemnity  
1.05 Personal Injuries  
1.06 Rules of Construction  
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1.14 Standard Penalty

**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Colfax, 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 Colfax, Iowa.
3. "Clerk" means the city clerk of Colfax, 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 Colfax, Iowa.
6. "Council" means the city council of Colfax, Iowa.
7. "County" means Jasper County, Iowa.
8. "May" confers a power.
9. "Measure" means an ordinance, amendment, resolution or motion.
10. "Must" states a requirement.
11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Colfax, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

**1.03 CITY POWERS.** The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the City and of its residents, and 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.

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

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## CHAPTER 2

### CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

**2.01 TITLE.** This chapter may be cited as the charter of the City of Colfax, 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 two Council Members elected at large and one Council Member from each of three wards as established by this Code of Ordinances, elected 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 four years.

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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## CHAPTER 3

# MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties  
3.04 Notice of Violation

3.05 Civil Citations  
3.06 Alternative Relief  
3.07 Alternative Penalties  
3.08 Costs of Enforcement of Municipal Infraction

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

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

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

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

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

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

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

1. Standard Civil Penalties.
  - A. Violations of the following chapters of this Code of Ordinances will be punishable by a civil penalty of:
    - (1) \$85.00 - First offense
    - (2) \$100.00 - Second offense
    - (3) \$200.00 - Third and all subsequent offenses, except for habitual violators as defined in this chapter.

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

## Chapters:

- (1) Section 46.01 - Juvenile Curfew
- (2) Chapter 47 - Park Regulations
- (3) Chapter 51 - Junk and Junk Vehicles
- (4) Chapter 55 - Animal Protection and Control
- (5) Chapter 56 - Licensing of Dogs and Cats
- (6) Chapter 71 - Outside Parking and Storage of Vehicles
- (7) Chapter 77 - Skateboards, Roller Skates, In-line Skates, and Scooters
- (8) Chapter 105 - Solid Waste Control
- (9) Chapter 122 - Peddlers, Solicitors, Transient Merchants

B. Violations of the following chapters of this Code of Ordinances will be punishable by a civil penalty of:

- (1) \$100.00 - First offense
- (2) \$200.00 - Second offense
- (3) \$500.00 - Third and all subsequent offenses, except for habitual violators as defined in this chapter.

## Chapters:

- (1) Chapter 57 - Dangerous and Vicious Animals
- (2) Chapter 90 - Water Service System
- (3) Chapter 93 - Water Well Protection
- (4) Chapter 97 - Use of Public Sewers
- (5) Chapter 155 - Building Codes
- (6) Chapter 159 - Minimum Housing Code

C. Standard penalties for any municipal infraction not provided for in Paragraphs A and B of this subsection or Subsection 2 of this section:

- (1) First Offense - not to exceed \$750.00
- (2) Each Repeat Offense - not to exceed \$1,000.00, except for habitual violators as defined in this chapter.

Each day that an above listed violation occurs or is permitted to exist constitutes a repeat offense. Municipal infraction violations within the previous 36 months will be considered for purposes of determining prior offenses, except for habitual violators.

D. Habitual Violators.

- (1) Definition. Any person who is found to have violated any chapter of this Code of Ordinances three or more times within a 36-month period, at any address in the City, shall be deemed to be a habitual violator.

(2) Civil Actions; Alternative Relief. In addition to other remedies set forth in this Code of Ordinances, when it is determined by the City that a violation exists and/or that a person is a habitual violator, the City may file a civil action in the district court seeking an order enjoining the person from further violations of this Code of Ordinances on real property owned or controlled by such person or real property where such person acts as an agent, tenant, or lessee of any residential dwelling, commercial establishment and/or real property within the City. The City may further request that upon entry of the injunction the court allow the City to abate further violations without notice and/or seek an order of contempt.

(3) Penalty. Any person found to be a habitual violator as defined by this section shall be assessed a scheduled penalty in the amount of \$350 per day until the violation has been abated.

*(Subsection 1 – Ord. 664 – Apr. 22 Supp.)*

2. Special Civil Penalties.

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

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

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

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

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

**3.04 NOTICE OF VIOLATION.** All code violations which are deemed to be municipal infractions pursuant to City Code Section 3.01 may initially be charged upon a simple notice of violation. The City may serve a notice of violation upon a party charged with an act constituting a municipal infraction either by delivering said notice personally or by certified mail to the party's last known address.

1. If the person charged admits the violation, such person shall be subject to the penalty applicable to municipal infractions as set forth in the schedule of penalties, unless another penalty is specifically provided for elsewhere in the code for that particular violation. Upon payment of the penalty to the Clerk, and performance of any other act required by law to be performed, the person charged shall not be further prosecuted or assessed any costs or other expenses for such violation, and the City shall retain all penalties collected pursuant to this section.

2. Where a code violation initially charged upon a simple notice of violation pursuant to this section is not admitted by the person charged, or is admitted by the

person charged but other acts required to be performed were not performed, a civil citation may be served and filed with the courts in the manner prescribed by the applicable provision(s) of this code. Such municipal infraction citation may seek a penalty and/or additional relief to the extent permitted by law.

3. This section does not impose a duty to initially charge any municipal infractions upon simple notice, and the officer charged with enforcement may initially issue a civil municipal infraction citation seeking a civil penalty with or without additional relief.

**3.05 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.

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

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

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

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

**3.08 COSTS OF ENFORCEMENT OF MUNICIPAL INFRACTION.** If the City prevails in the enforcement of a municipal infraction, in addition to all other relief available to the City, the City shall be entitled to an award of reasonable attorneys' fees and costs incurred by the City in enforcement of the municipal infraction.

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## CHAPTER 5

# OPERATING PROCEDURES

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

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

**5.03 POWERS AND DUTIES.** Each municipal officer shall exercise the powers and perform the duties prescribed by law and 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 & 22.3A)*

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 6

### CITY ELECTIONS

**6.01 Nominating Method to Be Used**

**6.02 Nominations by Petition**

**6.03 Adding Name by Petition**

**6.04 Preparation of Petition and Affidavit**

**6.05 Filing; Presumption; Withdrawals; Objections**

**6.06 Persons Elected**

**6.07 Division into Wards**

**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])*

**6.07 DIVISION INTO WARDS.**

1. Ward 1.

WARD 1 AND PRECINCT 1 IS ALL OF THAT PROPERTY BEGINNING AT THE INTERSECTION OF N. WALNUT STREET (HWY 117) AND E. FRONT STREET; THENCE EASTERLY ALONG THE CENTERLINE OF SAID E. FRONT STREET TO THE CENTERLINE OF N. IOWA STREET; THENCE SOUTH ALONG THE CENTERLINE OF N. IOWA STREET TO THE CENTERLINE OF E. HOWARD STREET; THENCE EAST ALONG THE CENTERLINE OF E. HOWARD STREET TO THE CENTERLINE LINE

OF N. LINCOLN STREET; THENCE SOUTH ALONG THE CENTERLINE OF N. LINCOLN STREET TO E. DIVISION STREET; THENCE CONTINUING SOUTH ALONG S. LINCOLN STREET TO THE CENTERLINE OF E. WASHINGTON STREET; THENCE EAST ALONG THE CENTERLINE OF E. WASHINGTON STREET TO THE CENTERLINE OF S. OAK PARK AVENUE; THENCE SOUTH ALONG THE CENTERLINE OF S. OAK PARK AVENUE TO THE CENTERLINE OF BLAKE STREET; THENCE EAST ALONG THE CENTERLINE OF SAID BLAKE STREET TO THE CENTERLINE OF GOODRICH STREET; THENCE SOUTH ALONG THE CENTERLINE OF SAID GOODRICH STREET TO THE INTERSECTION OF THE SOUTHERLY CITY CORPORATE LIMITS AS CURRENTLY BEING ESTABLISHED ON JANUARY 1 OF 2022; THENCE WESTERLY ALONG SAID SOUTHERLY CITY CORPORATE LIMITS TO THE CENTERLINE OF S. WALNUT STREET; THENCE NORTHERLY ALONG SAID CENTERLINE OF S. WALNUT STREET TO THE CENTERLINE OF W. HIGH STREET; THENCE WEST ALONG THE CENTERLINE OF SAID W. HIGH STREET TO THE CENTERLINE OF S. LOCUST STREET; THENCE NORTH ALONG SAID CENTERLINE OF S. LOCUST STREET TO THE CENTERLINE OF W. DIVISION STREET; THENCE CONTINUING NORTH ALONG SAID CENTERLINE OF N. LOCUST STREET TO THE CENTERLINE OF W. HOWARD STREET; THENCE EASTERLY ALONG SAID CENTERLINE OF W. HOWARD STREET TO THE CENTERLINE OF SAID N. WALNUT STREET; THENCE NORTHERLY ALONG THE CENTERLINE OF N. WALNUT STREET TO THE POINT OF BEGINNING.

1. Ward 2.

WARD 2 AND PRECINCT 2 IS ALL OF THAT PROPERTY BEGINNING AT THE INTERSECTION OF N. WALNUT STREET (HWY 117) AND E. FRONT STREET; THENCE NORTHWESTERLY ALONG THE CENTERLINE OF SAID N. WALNUT STREET (HWY 117) TO THE NORTH LINE OF SW  $\frac{1}{4}$  OF SECTION 1, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M.; THENCE EAST ALONG THE NORTH LINE OF SAID SW  $\frac{1}{4}$  OF SECTION 1 TO THE NORTH RIGHT-OF-WAY LINE OF NORTH STREET; THENCE EASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF NORTH STREET TO THE EAST RIGHT-OF-WAY LINE OF N. ELM STREET; THENCE SOUTHERLY ALONG THE EAST RIGHT-OF-WAY LINE OF N. ELM STREET TO SAID NORTH LINE OF SW  $\frac{1}{4}$  OF SECTION 1; THENCE EAST TO THE CENTER OF SAID SECTION 1; THENCE NORTH ALONG THE WEST LINE OF THE SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SAID SECTION 1 TO THE NW CORNER OF THE SOUTH  $\frac{1}{2}$  OF SAID SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE EAST ALONG THE NORTH LINE OF SAID SOUTH  $\frac{1}{2}$  OF THE SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1 TO THE NE CORNER OF SAID OF THE SOUTH  $\frac{1}{2}$  OF THE SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE SOUTH ALONG THE EAST LINE OF SAID SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1 TO THE SOUTH RIGHT-OF-WAY LINE OF IOWA INTERSTATE RAILROAD; THENCE NORTHEASTERLY ALONG THE SOUTH RIGHT-OF-WAY LINE OF IOWA INTERSTATE RAILROAD TO THE EAST LINE OF THE SE  $\frac{1}{4}$  OF SAID NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE NORTH ALONG

THE EAST LINE OF SAID SE  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1 TO THE NE CORNER OF SAID SE  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE WEST ALONG THE NORTH LINE OF SAID SE  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1 TO THE CENTERLINE LINE OF SOUTH SKUNK RIVER; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE OF SOUTH SKUNK RIVER TO THE WEST LINE OF SAID SE  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE NORTH ALONG THE WEST LINE OF SAID SE  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1 TO THE NW CORNER OF SAID SE  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE WEST ALONG THE NORTH LINE OF SAID SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1 TO THE NW CORNER OF SAID SW  $\frac{1}{4}$  OF THE NE FRACTIONAL  $\frac{1}{4}$  OF SECTION 1; THENCE WEST ALONG THE NORTH LINE OF THE SE  $\frac{1}{4}$  OF THE NW FRACTIONAL  $\frac{1}{4}$  OF SAID SECTION 1 TO THE NE CORNER OF A RETRACEMENT PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 348 OF THE JASPER COUNTY RECORDER'S OFFICE AND LOCALLY KNOWN AS 900 N. WALNUT STREET, COLFAX, IOWA; THENCE WEST ALONG THE NORTH LINE OF SAID RETRACEMENT PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 348 TO THE SE CORNER OF THE PROPERTY LOCALLY KNOWN AS 1000 N. WALNUT STREET, COLFAX, IOWA; THENCE NORTH ALONG THE EAST PROPERTY LINE OF SAID PROPERTY LOCALLY KNOWN AS 1000 N. WALNUT STREET, COLFAX, IOWA TO THE NE CORNER OF SAID PROPERTY LOCALLY KNOWN AS 1000 N. WALNUT STREET AND BEING THE SE CORNER OF PARCEL "E" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 281 OF THE JASPER COUNTY RECORDER'S OFFICE; THENCE NORTH ALONG THE EAST LINE OF SAID PARCEL "E" TO THE NE CORNER OF SAID PARCEL "E" AND BEING ON THE EAST RIGHT-OF-WAY LINE OF N. WALNUT STREET (HWY 117); THENCE NORTH ALONG THE EAST RIGHT-OF-WAY LINE OF N. WALNUT STREET (HWY 117) AND ALONG THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 80 TO THE EAST LINE OF THE SE  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. AND BEING ON THE NORTH LINE OF THE QUARRY SPRINGS PARK AND RECREATION PROPERTY; THENCE EASTERLY ALONG SAID NORTH LINE OF THE QUARRY SPRINGS PARK AND RECREATION PROPERTY TO THE CENTERLINE LINE OF SOUTH SKUNK RIVER; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE OF SOUTH SKUNK RIVER TO THE EAST LINE OF THE SW FRACTIONAL  $\frac{1}{4}$  OF SECTION 31, TOWNSHIP 80 NORTH, RANGE 20 WEST OF THE 5<sup>TH</sup> P.M.; THENCE SOUTH ALONG THE EAST LINE OF SAID SW FRACTIONAL  $\frac{1}{4}$  OF SECTION 31 TO THE NORTH  $\frac{1}{4}$  CORNER OF SECTION 6, TOWNSHIP 79 NORTH, RANGE 20 WEST OF THE 5<sup>TH</sup> P.M. AND BEING THE NE CORNER OF LOT 23 OF THE OFFICIAL PLAT OF THE NORTH  $\frac{1}{2}$  OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 23 TO THE NORTH RIGHT-OF-WAY LINE OF IOWA INTERSTATE RAILROAD; THENCE WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF IOWA INTERSTATE RAILROAD TO THE NORTHEASTERLY LINE OF LOT 21 OF SAID OFFICIAL PLAT OF THE

NORTH ½ OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE; THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE OF LOT 21 TO THE SOUTH RIGHT-OF-WAY LINE OF IOWA INTERSTATE RAILROAD; THENCE EASTERLY ALONG THE SOUTH RIGHT-OF-WAY LINE OF IOWA INTERSTATE RAILROAD TO EAST LINE OF LOT 23; THENCE SOUTH ALONG THE EAST LINE OF LOT 23 AND ALONG THE EAST LINE OF LOT 14 OF SAID OFFICIAL PLAT OF THE NORTH ½ OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE TO THE SE CORNER OF SAID LOT 14; THENCE WEST ALONG THE SOUTH LINE OF LOT 14 AND ALONG THE SOUTH LINE OF LOT 15 OF SAID OFFICIAL PLAT OF THE NORTH ½ OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE AND TO THE SW CORNER OF SAID LOT 15 AND BEING THE NW CORNER OF LOT 16 OF SAID OFFICIAL PLAT OF THE NORTH ½ OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE; THENCE SOUTH ALONG THE WEST LINE OF LOT 16 TO THE SW CORNER OF SAID LOT 16 AND BEING THE SE CORNER OF LOT 17 OF SAID OFFICIAL PLAT OF THE NORTH ½ OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE; THENCE WEST ALONG THE SOUTH LINE OF LOT 17 TO A LINE BEING 1.8 CHAINS EAST OF THE WEST LINE OF SAID LOT 17; THENCE NORTH PARALLEL TO SAID WEST LINE OF LOT 17 TO THE NORTH LINE OF SAID LOT 17; THENCE WEST ALONG THE NORTH LINE OF LOT 17 AND ALONG THE NORTH LINE OF LOT 18 OF SAID OFFICIAL PLAT OF THE NORTH ½ OF SAID SECTION 6 RECORDED IN BOOK 179, PAGE 282 OF JASPER COUNTY RECORDER'S OFFICE TO THE NW CORNER OF SAID LOT 18; THENCE SOUTH ALONG THE WEST LINE OF LOT 18 TO THE SW CORNER OF SAID LOT 18; THENCE EAST ALONG THE SOUTH LINE OF LOT 18 AND ALONG THE SOUTH LINE OF SAID LOT 17 TO SAID LINE BEING 1.8 CHAINS EAST OF THE WEST LINE OF LOT 17 AND BEING THE NW CORNER OF LOT 21 OF THE OFFICIAL PLAT OF THE SW ¼ OF SECTION 6, TOWNSHIP 79 NORTH, RANGE 20 WEST OF THE 5<sup>TH</sup> P.M.; THENCE SOUTH ALONG THE WEST LINE OF LOT 21 TO THE SW CORNER OF SAID LOT 21; THENCE EAST ALONG THE SOUTH LINE OF LOT 21 TO THE SE CORNER OF SAID LOT 21; THENCE SOUTH ALONG THE EAST LINE OF LOTS 20, 19, 16 AND 15 OF SAID OFFICIAL PLAT OF THE SW ¼ OF SECTION 6 TO THE SE CORNER OF SAID LOT 15; THENCE WEST ALONG THE SOUTH LINE OF LOT 15 AND ALONG THE SOUTH LINE OF LOT 14 OF SAID OFFICIAL PLAT OF THE SW ¼ OF SECTION 6 TO THE NE CORNER OF PARCEL "A" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1154, PAGE 2 OF THE JASPER COUNTY RECORDER'S OFFICE; THENCE SOUTH AND SOUTHWESTERLY ALONG THE EAST AND SOUTHEASTERLY LINE OF SAID PARCEL "A" TO THE EAST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD; THENCE SOUTH ALONG THE EAST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD TO THE NORTH RIGHT-OF-WAY LINE OF E. STATE STREET (HWY F-48); THENCE SOUTH TO THE

INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD AND THE SOUTH RIGHT-OF-WAY LINE OF E. STATE STREET (HWY F-48); THENCE CONTINUING SOUTH ALONG THE EAST RIGHT-OF-WAY LINE OF S. LEAGUE STREET TO THE SOUTH LINE OF LOT 4 OF THE SUBDIVISION OF THE NW FRACTIONAL  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SECTION 7, TOWNSHIP 79 NORTH, RANGE 20 WEST OF THE 5<sup>TH</sup> P.M., BEING AN OFFICIAL PLAT; THENCE EAST ALONG THE SOUTH LINE OF LOT 4 TO THE SE CORNER OF SAID LOT 4 AND BEING ON THE WEST LINE OF LOT 1 OF SAID SUBDIVISION OF THE NW FRACTIONAL  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SECTION 7; THENCE SOUTH ALONG THE WEST LINE OF LOT 1 TO THE SW CORNER OF SAID LOT 1; THENCE EAST ALONG THE SOUTH LINE OF LOT 1 TO THE INTERSECTION OF THE WEST LINE OF THE EAST 8.07 ACRES OF THE SW FRACTIONAL  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SAID SECTION 7; THENCE SOUTH ALONG THE WEST LINE OF THE EAST 8.07 ACRES OF SAID SW FRACTIONAL  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SECTION 7 TO THE SOUTH LINE OF SAID THE SW FRACTIONAL  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SECTION 7; THENCE EAST ALONG THE SOUTH LINE OF SAID SW FRACTIONAL  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SECTION 7 AND ALONG THE SOUTH LINE OF THE SE  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  OF SAID SECTION 7 TO THE CENTER OF SAID SECTION 7; THENCE SOUTH ALONG THE EAST LINE OF THE SW  $\frac{1}{4}$  OF SAID SECTION 7 TO THE NORTH RIGHT-OF-WAY LINE OF S. 44<sup>TH</sup> AVENUE W.; THENCE WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF S. 44<sup>TH</sup> AVENUE W. TO THE WEST LINE OF SE  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SAID SECTION 7; THENCE NORTH ALONG THE WEST LINE OF SAID SE  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 7 TO THE NW CORNER OF SAID SE  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 7; THENCE WEST ALONG THE NORTH LINE OF THE SW FRACTIONAL  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SAID SECTION 7 TO THE EAST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD; THENCE SOUTH ALONG THE EAST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD TO THE CENTERLINE OF S. 44<sup>TH</sup> AVENUE W.; THENCE WEST ALONG THE CENTERLINE OF S. 44<sup>TH</sup> AVENUE W. TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD EXTENDED SOUTHERLY; THENCE NORTH ALONG THE WEST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD EXTENDED SOUTHERLY AND ALONG THE WEST RIGHT-OF-WAY OF S. LEAGUE ROAD TO THE NORTH LINE OF THE SE  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>H</sup> P.M.; THENCE WEST ALONG THE NORTH LINE OF SAID SE  $\frac{1}{4}$  OF SECTION 12 TO THE NE CORNER OF TIMBERLINE PLACE PLAT 1, AN OFFICIAL PLAT; THENCE SOUTH ALONG THE EAST LINE OF TIMBERLINE PLACE PLAT 1 TO THE SE CORNER OF SAID TIMBERLINE PLACE PLAT 1; THENCE WEST ALONG THE SOUTH LINE OF TIMBERLINE PLACE PLAT 1 TO THE SW CORNER OF SAID TIMBERLINE PLACE PLAT 1; THENCE NORTH ALONG THE WEST LINE OF TIMBERLINE PLACE PLAT 1 TO THE NW CORNER OF SAID TIMBERLINE PLACE PLAT 1; THENCE EAST LONG THE NORTH LINE OF TIMBERLINE PLACE PLAT 1 TO THE WEST RIGHT-OF-WAY LINE OF GOODRICH STREET; THENCE NORTH ALONG THE WEST RIGHT-OF-WAY LINE OF GOODRICH STREET TO THE SOUTH LINE OF S. 35<sup>TH</sup> AVENUE W.; THENCE EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF S. 35<sup>TH</sup> AVENUE W. EXTENDED EASTERLY TO WEST LINE OF

LOT B OF THE OFFICIAL PLAT RECORDED IN BOOK 219, PAGE 29 OF THE JASPER COUNTY RECORDER'S OFFICE AND BEING THE EAST RIGHT-OF-WAY LINE OF GOODRICH STREET; THENCE NORTH ALONG THE WEST LINE OF SAID LOT B TO THE NW CORNER OF LOT 26 OF D & P COLFAX ADDITION, AN OFFICIAL PLAT; THENCE EAST ALONG THE NORTH LINE OF LOT 26 TO THE NE CORNER OF SAID LOT 26 AND BEING THE WEST LINE OF LOT A OF SAID OFFICIAL PLAT RECORDED IN BOOK 219, PAGE 29; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT A TO THE NORTH LINE OF THE SOUTH 50 FEET OF SAID LOT A; THENCE EAST ALONG SAID NORTH LINE OF THE SOUTH 50 FEET OF SAID LOT A TO THE WEST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD; THENCE NORTH ALONG THE WEST RIGHT-OF-WAY LINE OF S. LEAGUE ROAD TO THE NORTH LINE OF THE SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SAID SECTION 12; THENCE WEST ALONG THE NORTH LINE OF SAID SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 12 TO THE CENTERLINE OF SAID GOODRICH STREET; THENCE NORTH ALONG THE CENTERLINE OF GOODRICH STREET TO THE CENTERLINE OF BLAKE STREET; THENCE WEST ALONG THE CENTERLINE OF BLAKE STREET TO THE CENTERLINE OF S. OAK PARK AVENUE; THENCE NORTH ALONG THE CENTERLINE OF S. OAK PARK AVENUE TO THE CENTERLINE OF E. WASHINGTON STREET; THENCE WEST ALONG THE CENTERLINE OF E. WASHINGTON STREET TO THE CENTERLINE OF S. LINCOLN STREET; THENCE NORTH ALONG THE CENTERLINE OF S. LINCOLN STREET TO THE CENTERLINE OF E. DIVISION STREET; THENCE CONTINUING NORTH ALONG THE CENTERLINE OF N. LINCOLN STREET TO THE CENTERLINE LINE OF E. HOWARD STREET; THENCE WEST ALONG THE CENTERLINE OF E. HOWARD STREET TO THE CENTERLINE OF N. IOWA STREET; THENCE NORTH ALONG THE CENTERLINE OF N. IOWA STREET TO THE CENTERLINE OF E. FRONT STREET; THENCE WEST ALONG THE CENTERLINE OF E. FRONT STREET TO THE POINT OF BEGINNING;

AND

EXCEPT THAT PART OF THE NW FRACTIONAL  $\frac{1}{4}$  OF SECTION 6, TOWNSHIP 79 NORTH, RANGE 20 WEST OF THE 5<sup>TH</sup> P.M. LYING SOUTH OF THE CENTERLINE LINE OF SOUTH SKUNK RIVER AND LYING NORTH OF THE SOUTH BANK OF SAID SOUTH SKUNK RIVER.

2. Ward 3.

WARD 3 AND PRECINCT 3 IS ALL OF THAT PROPERTY BEGINNING AT THE INTERSECTION OF N. WALNUT STREET (HWY 117) AND W. FRONT STREET; THENCE SOUTHERLY ALONG THE CENTERLINE OF SAID N. WALNUT STREET TO THE CENTERLINE OF W. HOWARD STREET; THENCE WESTERLY ALONG SAID CENTERLINE OF W. HOWARD STREET TO THE CENTERLINE OF N. LOCUST STREET; THENCE SOUTH ALONG SAID CENTERLINE OF N. LOCUST STREET TO THE CENTERLINE OF W. DIVISION STREET; THENCE CONTINUING SOUTH ALONG THE CENTERLINE OF S. LOCUST STREET TO THE CENTERLINE OF W. HIGH STREET; THENCE EAST ALONG SAID CENTERLINE OF W. HIGH STREET TO THE CENTERLINE OF S. WALNUT STREET; THENCE SOUTH ALONG THE CENTERLINE

OF S. WALNUT STREET TO THE INTERSECTION OF THE SOUTH LINE OF THE NORTH  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M.; THENCE WEST ALONG SAID SOUTH LINE OF THE NORTH  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF SECTION 12 TO THE SW CORNER OF SAID NORTH  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF SECTION 12; THENCE WEST ALONG THE SOUTH LINE OF THE NORTH  $\frac{1}{2}$  OF THE NE  $\frac{1}{4}$  OF SECTION 11, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. TO THE SW CORNER OF THE EAST  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF SAID NE  $\frac{1}{4}$  OF SECTION 11; THENCE NORTH ALONG THE WEST LINE OF SAID EAST  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 11 TO THE NW CORNER OF SAID EAST  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 11 AND BEING THE CENTERLINE OF W. STATE STREET; THENCE EAST ALONG THE NORTH LINE OF SAID EAST  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 11 TO THE SW CORNER OF THE EAST  $\frac{1}{2}$  OF THE SE  $\frac{1}{4}$  OF SECTION 2, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M.; THENCE NORTH ALONG THE WEST LINE OF SAID EAST  $\frac{1}{2}$  OF THE SE  $\frac{1}{4}$  OF SECTION 2 TO THE NW CORNER OF SAID E  $\frac{1}{2}$  OF THE SE  $\frac{1}{4}$  OF SECTION 2; THENCE EAST ALONG THE NORTH LINE OF SAID EAST  $\frac{1}{2}$  OF THE SE  $\frac{1}{4}$  OF SECTION 2 TO THE E  $\frac{1}{4}$  CORNER OF SAID SECTION 2; THENCE NORTH ALONG THE EAST LINE OF THE SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SAID SECTION 2 TO THE NE CORNER OF SAID SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 2; THENCE WEST ALONG THE NORTH LINE OF SAID SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 2 TO THE NW CORNER OF SAID SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$  OF SECTION 2; THENCE NORTH ALONG THE WEST LINE OF THE NE  $\frac{1}{4}$  OF SAID NE  $\frac{1}{4}$  OF SECTION 2 AND ALONG THE WEST LINE OF THE SE  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 35, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. TO THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 80; THENCE EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 80 TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY OF HWY 117; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY OF HWY 117 TO THE NE CORNER OF PROPERTY OWNED BY NORTHERN NATURAL GAS IN DEED 508, PAGE 210; THENCE WEST ALONG THE NORTH LINE OF SAID NORTHERN NATURAL GAS PROPERTY TO THE NW CORNER OF SAID NORTHERN NATURAL GAS PROPERTY; THENCE SOUTH ALONG THE WEST LINE OF SAID NORTHERN NATURAL GAS PROPERTY TO THE NORTH RIGHT-OF-WAY LINE OF ORCHARD AVENUE; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF ORCHARD AVENUE APPROXIMATELY 465 FEET; THENCE SOUTH TO THE SOUTH LINE OF THE SW  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M.; THENCE EAST ALONG SOUTH LINE OF SAID SW  $\frac{1}{4}$  OF SECTION 36 TO SAID WEST RIGHT-OF-WAY LINE OF HWY 117; THENCE SOUTH ALONG THE WEST LINE OF HWY 117 TO THE SE CORNER OF PARCEL "C" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1125, PAGE 230 OF THE JASPER COUNTY RECORDER'S OFFICE; THENCE WEST ALONG THE SOUTH LINE OF SAID PARCEL "C" TO THE SW CORNER OF SAID PARCEL "C"; THENCE SOUTH ALONG THE WEST LINE OF PARCEL "B" OF SAID PLAT OF SURVEY RECORDED IN BOOK 1125, PAGE 230 AND ALONG THE WEST LINE OF PARCEL "A" AS SHOWN IN A PLAT OF SURVEY RECORDED

IN BOOK 1125, PAGE 161 OF THE JASPER COUNTY RECORDER'S OFFICE TO THE SW CORNER OF SAID PARCEL "A"; THENCE EAST ALONG THE SOUTH LINE OF SAID PARCEL "A" TO SAID WEST RIGHT-OF-WAY LINE OF HWY 117; THENCE SOUTH ALONG THE WEST RIGHT-OF-WAY LINE OF HWY 117 TO THE NE CORNER OF PARCEL "D" AS SHOWN ON A PLAT OF SURVEY RECORDED IN BOOK 1125, PAGE 305 OF THE JASPER COUNTY RECORDER'S OFFICE; THENCE SOUTH 22°15'53" EAST ALONG THE WEST RIGHT-OF-WAY LINE OF HWY 117 AND ALONG THE EAST LINE OF SAID PARCEL "D", 243.82 FEET; THENCE SOUTH 4° 40'24" EAST ALONG THE WEST RIGHT-OF-WAY LINE OF HWY 117 AND ALONG THE EAST LINE OF SAID PARCEL "D", 394.90 FEET; THENCE SOUTH 73° 39'41" WEST, 142.69 FEET TO SAID EAST LINE OF PARCEL "D"; THENCE SOUTH 16°20'18" EAST ALONG THE EAST LINE OF SAID PARCEL "D", 139.77 FEET; THENCE NORTH 80° 51' 58" EAST ALONG THE EAST LINE OF SAID PARCEL "D", 111.82 FEET TO SAID WEST RIGHT-OF-WAY LINE OF HWY 117; THENCE SOUTH ALONG THE WEST RIGHT-OF-WAY LINE OF HWY 117 TO THE SOUTH LINE OF THE NW ¼ OF SECTION 1, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M.; THENCE EAST ALONG THE SOUTH LINE OF THE NW ¼ OF SECTION 1 TO THE CENTERLINE OF N. WALNUT STREET (HWY 117); THENCE SOUTH ALONG SAID CENTERLINE OF N. WALNUT STREET TO THE POINT OF BEGINNING;

AND

THAT PART OF THE NW FRACTION ¼ OF SECTION 1, TOWNSHIP 79 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M., AS SHOWN IN A RETRACEMENT PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 348 OF THE JASPER COUNTY RECORDER'S OFFICE AND LOCALLY KNOWN AS 900 N. WALNUT STREET, COLFAX, IOWA;

AND

PARCEL "A" OF THE SE ¼ OF SECTION 35, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M., AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 65 OF THE JASPER COUNTY RECORDER'S OFFICE AND LOCALLY KNOWN AS 11000 FEDERAL AVENUE, COLFAX, IOWA;

AND

PARCEL "D" OF THE SE ¼ OF SECTION 35, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M., AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1157, PAGE 146 OF THE JASPER COUNTY RECORDER'S OFFICE AND LOCALLY KNOWN AS 11250 FEDERAL AVENUE, COLFAX, IOWA;

AND

PARCEL "Q" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1156, PAGE 389 OF THE JASPER COUNTY RECORDER'S OFFICE BEING IN THE SW ¼ OF THE NW ¼ OF SECTION 36, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. AND LOCALLY KNOWN AS 1407 N. WALNUT STREET, COLFAX, IOWA;

AND

PARCEL "R" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1156, PAGE 389 OF THE JASPER COUNTY RECORDER'S OFFICE BEING IN THE SW  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  AND THE NW  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. AND LOCALLY KNOWN AS 1403 N. WALNUT STREET, COLFAX, IOWA;

AND

PARCEL "L" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 83 OF THE JASPER COUNTY RECORDER'S OFFICE BEING IN THE SE  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  AND THE NE  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. AND LOCALLY KNOWN AS 1402 N. WALNUT STREET, COLFAX, IOWA AND THAT PART OF LOT 4 OF COLFAX TRACTOR PARTS SUBDIVISION, AN OFFICIAL PLAT, LYING TO THE WEST OF SAID PARCEL "L";

AND

PARCEL "K" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1153, PAGE 83 OF THE JASPER COUNTY RECORDER'S OFFICE BEING IN THE SE  $\frac{1}{4}$  OF THE NW  $\frac{1}{4}$  AND THE NE  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 80 NORTH, RANGE 21 WEST OF THE 5<sup>TH</sup> P.M. AND LYING JUST SOUTH OF 1402 N. WALNUT STREET, COLFAX, IOWA AND THAT PART OF LOT 4 OF COLFAX TRACTOR PARTS SUBDIVISION, AN OFFICIAL PLAT, LYING TO THE WEST OF SAID PARCEL "K";

AND

THAT PART OF LOT 1 OF COLFAX TRACTOR PARTS SUBDIVISION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF COLFAX, IOWA LYING SOUTH OF PARCEL "J" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 1125, PAGE 441 OF THE JASPER COUNTY RECORDER'S OFFICE AND LOCALLY KNOWN AS 1404 N. WALNUT STREET, COLFAX, IOWA.

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## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council 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*)

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

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

6. Notice of Hearing. Following, and not until 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.  
(IAC, 545-2.2[384, 388])

2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.  
(IAC, 545-2.3[384, 388])

3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.  
(IAC, 545-2.4[384, 388])

4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.  
(IAC, 545-2.4[384, 388])

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk and Mayor following Council approval, except as provided by Subsection 5 hereof.

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

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

6. Payment of Accounts by Clerk. The Clerk is authorized to make timely payments of certain bills of account for services or merchandise furnished to the City upon presentation of the bills of account and after having ascertained that said bills of account are correct and proper obligations of the City and without obtaining prior Council approval therefor and shall include the following classifications of accounts:

A. Utilities, including gas, telephone and electricity;

- B. Payroll;
  - C. Payroll taxes, including monthly withholding deposits and payments due on quarterly reports for IPERS, FICA and Sales Tax;
  - D. Contract payments previously approved by Council;
  - E. Legal publication expenses;
  - F. Postage;
  - G. Bills submitted on a specific project previously approved by the Council;
  - H. Membership dues previously approved by the Council;
  - I. Registration fees, education fees, travel expenses;
  - J. Interest coupons;
  - K. Petty cash expenses.
7. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

*(Code of Iowa, Sec. 384.22)*

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## CHAPTER 8

### URBAN RENEWAL

#### 8.01 Purpose

#### 8.02 Colfax Urban Renewal Area

#### 8.03 Colfax Urban Renewal Area No. 2

#### 8.04 Colfax Urban Renewal Area No. 3

#### 8.05 Colfax Downtown Urban Renewal Area

#### 8.06 Colfax North Urban Renewal Area

**8.01 PURPOSE.** The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Urban Renewal Areas of the City each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of the ordinances codified in this chapter in order to create a special fund to pay the principal of and interest on loans, advances or indebtedness, including bonds proposed to be issued by the City, to finance projects in such areas.

**8.02 COLFAX URBAN RENEWAL AREA.** The provisions of this section apply to the Colfax Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on December 13, 1988:

*The north 1.0 foot of the east 200.0 feet of Lot 10, in the subdivision of the West ½ NE¼ Section 12, Township 79 North, Range 21 West of the 5th P.M., Jasper County, Iowa.*

*The North 441.87' of Lot 12 adj. to Lot 10 SW¼ NE¼ Section 12, Township 79 North, Range 21 West of the 5th P.M., Jasper County, Iowa.*

*A part of Lot G of E. F. Wood's Subdivision of the South ½ of the NE¼ of Section 12, Township 79 North, Range 21 West of the 5th P.M., Jasper County, Iowa, described as follows: Beginning at the southwest corner of said Lot G; thence north 16° 58' 41" east along the westerly line of said Lot G, 294.00 feet; thence south 90°00'00" east, 338 feet; thence south 2°54'19" west, 281.55 feet to a point on the south line of said Lot G; thence north 90°00'00" west (assumed for the purposes of this description) along the said south line of Lot G, 409.58 feet to the point of beginning and containing 2.41 acres more or less.*

*All of the 40.0 foot wide right-of-way for the public street locally known as Oak Park Avenue running from the south line of Lot G of E. F. Wood's subdivision of the South ½ of the NE¼ and running to the south line of Lot 10 of the subdivision of the West ½ of the NE¼ all in Section 12, Township 79 North, Range 21 West of the 5<sup>th</sup> P.M., Jasper County, Iowa.*

The taxes levied on the taxable property in the Colfax Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of the ordinance codified in this section shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Colfax Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the effective date of the ordinance codified by this section, shall be allocated to and when collected be paid

into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Colfax Urban Renewal Area on the effective date of the ordinance codified in this section, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1 of the calendar year preceding the effective date of such ordinance shall be used in determining the assessed valuation of the taxable property in said Colfax Urban Renewal Area on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Colfax Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Colfax Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Colfax Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Colfax Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Colfax Urban Renewal Area.

4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**8.03 COLFAX URBAN RENEWAL AREA NO. 2.** The provisions of this section apply to the Colfax Urban Renewal Area No. 2, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on June 25, 1991:

*Beginning at the northwest corner of the south 3 acres of Lot 10 of the southwest ¼ of the northeast ¼ of Section 12, Township 79 north, Range 21 west of the 5th P.M.; thence south to the southwest corner of the said southwest ¼ of the northeast ¼ of Section 12; thence east along the south line of the northeast ¼ of said Section 12 to a point on the west right-of-way line of the public highway (now State 117) running along the east side of said Section 12, Township 79 north, Range 21 west of the 5th P.M.; thence south along the west right-of-way line of said public highway to the south line of said Section 12; thence east to a point 52.10 feet east of the southwest corner of Section 7, Township 79 north, Range 20 west of the 5th P.M.; thence north along the east right-of-way line of said public highway (now State 117) to the north line of the southwest ¼ of the southwest ¼ of said Section 7; thence east to the northeast corner of said*

*southwest 1/4 of the southwest 1/4; thence south to the southwest corner of the east 1/2 of the southwest 1/4 of said Section 7; thence east to the southeast corner of said east 1/2 of the southwest 1/4; thence north to the northeast corner of said east 1/2 of the southwest 1/4; thence west along the north line of the southwest 1/4 of said Section 7 to a point on the east line of the west 30 acres of the southwest 1/4 of the northwest 1/4 of said Section 7; thence north along said east line to the north line of said southwest 1/4 of the northwest 1/4; thence west to the east line of the south 12 acres of the west 24 acres of the northwest 1/4 of the northwest 1/4 of said Section 7; thence north to the north line of said south 12 acres of the west 24 acres; thence west to the west right-of-way line of the public highway (now State 117); thence south along the said west right-of-way line of the public highway to a point on the north line of the southeast 1/4 of the northeast 1/4 of said Section 12, Township 79 north, Range 21 west of the 5th P.M.; thence west along the north line of the said southeast 1/4 of the northeast 1/4 and the north line of the southwest 1/4 of the northeast 1/4 of said Section 12 to a point on the east line of Lot 12 of the southwest 1/4 of the northeast 1/4 of said Section 12; thence southerly along said east line of Lot 12 and the east right-of-way line of Oak Park Avenue to a point beginning 294.00 feet northerly of the southwest corner of Lot G of E. F. Woods Subdivision of the south 1/2 of the northeast 1/4 of said Section 12; thence east 338.00 feet; thence southerly 281.55 feet to a point on the south line of said Lot G, said point being 409.58 feet east of the southwest corner of said Lot G; thence west along the south line and the extension thereof of said Lot G to a point on the westerly right-of-way line of said Oak Park Avenue; thence northerly along the said westerly right-of-way of Oak Park Avenue and the west line of Lot 12 of the said southwest 1/4 of the northeast 1/4 to a point on the north line of the south 3 acres of Lot 10 of the southwest 1/4 of the northeast 1/4 of said Section 12; thence west to the point of beginning.*

The area includes the full right-of-way of all streets forming the boundary.

The taxes levied on the taxable property in the Colfax Urban Renewal Area No. 2 each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 338 shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Colfax Urban Renewal Area No. 2, as shown on the assessment roll as of January 1, 1990, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Colfax Urban Renewal Area No. 2 on the effective date of Ordinance No. 338, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1, 1990, shall be used in determining the assessed valuation of the taxable property in said Colfax Urban Renewal Area No. 2 on the effective date.
2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the

Colfax Urban Renewal Area No. 2, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Colfax Urban Renewal Area No. 2 exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Colfax Urban Renewal Area No. 2 shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Colfax Urban Renewal Area No. 2 shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Colfax Urban Renewal Area No. 2.

4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**8.04 COLFAX URBAN RENEWAL AREA NO. 3.** The provisions of this section apply to the Colfax Urban Renewal Area No. 3, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on July 26, 1999:

An area known as the Bruxvoort Addition, described as follows:

*The East Half of the Northwest Quarter of the Northeast Quarter of Section Eleven, Township Seventy-nine North, Range Twenty-one West of the Fifth P.M., Jasper County, Iowa, EXCEPT beginning at the southeast corner of said Northwest Quarter of the Northeast Quarter, run thence north seven hundred twenty feet, then west three hundred thirty feet, thence south seven hundred twenty feet, thence east three hundred thirty feet to the place of beginning.*

The taxes levied on the taxable property in the Colfax Urban Renewal Area No. 3 each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 421 shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Colfax Urban Renewal Area No. 3, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Colfax Urban Renewal Area No. 3 on the effective date of Ordinance No. 421, but to which the territory has been annexed or otherwise

included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinances which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in said Colfax Urban Renewal Area No. 3 on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Colfax Urban Renewal Area No. 3, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Colfax Urban Renewal Area No. 3 exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Colfax Urban Renewal Area No. 3 shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Colfax Urban Renewal Area No. 3 shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Colfax Urban Renewal Area No. 3.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**8.05 COLFAX DOWNTOWN URBAN RENEWAL AREA.** The provisions of this section apply to the Colfax Downtown Urban Renewal Area, which includes the property identified below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on November 12, 2012:

(For the list of properties included in the Colfax Downtown Urban Renewal Area refer to Ordinance No. 594 and Exhibit A to the Urban Renewal Plan on file at City Hall.)

The taxes levied on the taxable property in the Colfax Downtown Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 594 shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Colfax Downtown Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans,

advances, indebtedness or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Colfax Downtown Urban Renewal Area on the effective date of Ordinance No. 594, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Colfax Downtown Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, to the extent authorized in Section 403.19(2) of the *Code of Iowa*, taxes for the instructional support program levy of a school district, to the extent authorized in Section 403.19(2) of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Colfax Downtown Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Colfax Downtown Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Colfax Downtown Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Colfax Downtown Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**8.06 COLFAX NORTH URBAN RENEWAL AREA.** The provisions of this section apply to the Colfax North Urban Renewal Area, which includes the property identified below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on November 12, 2012:

*Lot 1, except Parcels B, G, and J, in Colfax Tractor Parts Subdivision Final Plat, an Official Plat in Section 36, Township 80 North, Range 21 West of the 5th P.M., Jasper County, Iowa. (PIN 0636100024)*

The taxes levied on the taxable property in the Colfax North Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 595 shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Colfax North Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Colfax North Urban Renewal Area on the effective date of Ordinance No. 595, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.
2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Colfax North Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, to the extent authorized in Section 403.19(2) of the *Code of Iowa*, taxes for the instructional support program levy of a school district, to the extent authorized in Section 403.19(2) of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Colfax North Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Colfax North Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Colfax North Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the

authority of Section 403.9[1] of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Colfax North Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

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## **CHAPTER 9**

# **URBAN REVITALIZATION**

**9.01 DESIGNATION OF REVITALIZATION AREA.** In accordance with Chapter 404 of the *Code of Iowa*, a revitalization area consisting of all property within the corporate boundaries of the City is established. A schedule of tax exemptions for the revitalization area is adopted as set forth in Chapter 404.3 of the *Code of Iowa*.

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## CHAPTER 10

# HOTEL-MOTEL TAX

**10.01 Tax Imposed**  
**10.02 Definitions**

**10.03 Collection and Use**  
**10.04 Tax Exemption**

**10.01 TAX IMPOSED.** A hotel and motel tax at a rate of seven percent shall be imposed upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except 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.

**10.02 DEFINITIONS.** “Renting” and “rent” shall include any kind of direct or indirect charge for such sleeping rooms, apartments or sleeping quarters or their use. However, the tax shall not apply to the sales price from the renting of a sleeping room, apartment or sleeping quarters while rented by the same person for a period of more than 31 consecutive days.

**10.03 COLLECTION AND USE.** The tax imposed by this chapter shall be remitted by the person or company liable for the same to the State Director of Revenue in the manner provided by the laws of the State of Iowa. All revenues received by the City from the imposition of the hotel and motel tax shall be used in accordance with the provisions of the laws of the State of Iowa.

**10.04 TAX EXEMPTION.** All of the following are exempted from the provisions of this chapter and from the computation of any amount of tax imposed by Section 10.01:

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)*

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## CHAPTER 11

# LOCAL OPTION SALES AND SERVICES TAX – COLFAX DOWNTOWN URBAN RENEWAL AREA

11.01 Purpose	11.06 Use of Designated Amount of Increased Sales Tax Revenues
11.02 Definitions	11.07 Repealer
11.03 Finding of Eligibility	11.08 Saving Clause
11.04 Identification of Retail Establishments in the Urban Renewal Area	11.09 Effective Date
11.05 Provisions For the Determination, Crediting, and Depositing of Increased Sales Tax Revenues Attributable to Retail Establishments in the Urban Renewal Area	

**11.01 PURPOSE.** The purpose of this ordinance is to provide for the special crediting and distribution of increased local option sales and services tax revenues collected relative to the retail establishments situated within the Colfax Downtown Urban Renewal Area after the effective date of this ordinance for the deposit into a special fund for the funding of urban renewal projects in the Colfax Downtown Urban Renewal Area.

**11.02 DEFINITIONS.** For use within this ordinance the following terms shall have the following meanings:

1. “Base year” means the fiscal year of the City beginning July 1, 2020 and ending June 30, 2021, such year being the fiscal year during which this ordinance was adopted.
2. “City” means the City of Colfax, Iowa.
3. “County” means Jasper County, Iowa.
4. “Department of Revenue” means the Department of Revenue for the State of Iowa.
5. “Designated amount” means the percentage of increased sales tax revenues as set out in Section 11.05(2) of this ordinance.
6. “Increased sales tax revenues” means the amount of sales tax revenues as determined by the Department of Revenue from time to time pursuant to Section 423B.10 of the *Code of Iowa* and Section 11.05(1) of this ordinance.
7. “Retail establishment” means a business operated by a retailer as defined in Section 423.1 of the *Code of Iowa*.
8. “Sales tax” means the local sales and services tax being imposed and collected in the City under Section 423B.1 of the *Code of Iowa*.
9. “Urban renewal area” means the entirety of the Colfax Downtown Urban Renewal Area as of the effective day of this ordinance.
10. “Urban renewal tax increment revenue fund” means the Colfax Downtown Urban Renewal Area Tax Increment Revenue Fund, established by prior ordinance of the City Council pursuant to Section 403.19 of the *Code of Iowa*.

**11.03 FINDING OF ELIGIBILITY.** The City Council hereby finds that the City is an “eligible city” within the meaning of Section 423B.10, Subsection 1.b of the *Code of Iowa*, by reason of the current imposition of a sales tax in the City and the prior designation of the Urban Renewal Area.

**11.04 IDENTIFICATION OF RETAIL ESTABLISHMENTS IN THE URBAN RENEWAL AREA.** The City Clerk shall compile and maintain a list of the retail establishments situated within the Urban Renewal Area and shall share the list with the Department of Revenue. By no later than March 1 of each year, the City Clerk shall update the list and share such updates with the Department of Revenue. In addition to the provision of the list, the City shall assist the Department of Revenue in identifying retail establishments in the Urban Renewal Area that are collecting sales tax. This process shall be ongoing until this ordinance is repealed.

**11.05 PROVISIONS FOR THE DETERMINATION, CREDITING, AND DEPOSITING OF INCREASED SALES TAX REVENUES ATTRIBUTABLE TO RETAIL ESTABLISHMENTS IN THE URBAN RENEWAL AREA.** After the effective date of this ordinance, the increased sales tax revenues attributable to retail establishments in the Urban Renewal Area shall be determined, credited, and distributed as follows:

1. Determination of Increased Sales Tax Revenues:
  - A. The Department of Revenue shall first determine the amount of sales tax revenues collected from retail establishments in the Urban Renewal Area during the base year.
  - B. The Department of Revenue shall then annually determine the amount of current fiscal year sales tax revenues collected from retail establishments in the Urban Renewal Area for each fiscal year following the base year.
  - C. The increased sales tax revenues available each fiscal year shall equal the annual excess of the amount determined in Subparagraph B over the base year revenue amount determined in Subparagraph A.
2. Establishment of Designated Amount. The designated amount shall be 100% of the increased sales tax revenues in each year.
3. Credit and Deposit of Designated Amount of Increased Sales Tax Revenues. From time to time, the Director of the Department of Revenues shall credit to a special City account, as defined in Section 423B.7, Subsection 6 of the *Code of Iowa*, in the local sales and services tax fund an amount equal to the designated amount of increased sales tax revenues, and shall remit such amount to the City without regard for the distribution provisions of Section 423B.7, Subsections 3, 4 and 5 of the *Code of Iowa*, for the deposit by the City Council into the Urban Renewal Tax Increment Revenue Fund.

**11.06 USE OF DESIGNATED AMOUNT OF INCREASED SALES TAX REVENUES.** The designated amount of increased sales tax revenues deposited from time to time into the Urban Renewal Tax Increment Revenue Fund shall be used to fund urban renewal projects in the Urban Renewal Area.

**11.07 REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**11.08 SAVING 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.

**11.09 EFFECTIVE DATE.** This ordinance shall be effective<sup>†</sup> after its final passage, approval and publication as provided by law, and shall be repealed when the Urban Renewal Area ceases to be an Urban Renewal Area or after twelve (12) years of collections of increased sales tax revenues by the City hereunder, whichever is earlier.

*(Ch. 11 – Ord. 647 – Mar. 21 Supp.)*

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 647, adopting a local option sales and services tax for retail establishments in the Colfax Downtown Urban Renewal Area, was approved on March 8, 2021.

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## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

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

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

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

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

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

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

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

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

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 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 & 380.6[2]*)

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief, subject to consent of a majority of Council
3. Parks and Recreation Board, with Council approval
4. Peace officers, subject to Council approval
5. Library Board of Trustees, subject to Council approval
6. Zoning Board of Adjustment, subject to Council approval

**15.04 COMPENSATION.** The salary of the Mayor is \$3,600.00 per year. In the absence of a City Administrator, the Mayor's salary shall be \$500.00 per month.  
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

## CHAPTER 16

### MAYOR PRO TEM

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

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

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

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

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

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

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

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

**16.04 COMPENSATION.** The salary of the Mayor Pro Tem is \$40.00 per meeting (not to exceed 20 meetings per year). If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of 15 days or more, the Mayor Pro Tem may be paid for that period the compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.

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

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## CHAPTER 17

### CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 NUMBER AND TERM OF COUNCIL.** The Council consists of two Council Members elected at large and one Council Member from each of three wards as established by the Code of Ordinances, elected for overlapping terms of four years.

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.  
*(Code of Iowa, Sec. 372.13[5])*
3. Quorum. A majority of all Council members is a quorum.  
*(Code of Iowa, Sec. 372.13[1])*
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.  
*(Code of Iowa, Sec. 372.13[5])*
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Administrator
2. City Clerk/Treasurer
3. City Attorney
4. Planning and Zoning Commission

**17.06 COMPENSATION.** The salary of each Council member is \$40.00 for each meeting of the Council attended (not to exceed 20 meetings per year).

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

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## CHAPTER 18

### CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint a City Clerk to maintain City records and perform other duties prescribed by State or City law. This is a continuing appointment with removal only for just cause as specified in the *Code of Iowa* for elected and appointed officials.

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 362.3)*

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18.14 CITY FUNDS.** The Clerk shall perform the following duties relating to City funds.

*(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 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 from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Clerk’s custody and belonging to the City, deposit the same in depositories selected by the Council in amounts not exceeding monetary limits authorized by the Council.

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## CHAPTER 19

### CITY TREASURER

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

**19.03 Duties of Treasurer**

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

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

**19.03 DUTIES OF TREASURER.** The duties of the Treasurer are as follows:  
*(Code of Iowa, Sec. 372.13[4])*

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

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## CHAPTER 20

### CITY ATTORNEY

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

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

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

*(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 Council, by any Board, or the head of any City department.

*(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])*

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## CHAPTER 21

### CITY ADMINISTRATOR

21.01 Purpose  
21.02 Office Created  
21.03 Compensation  
21.04 Duties Generally

21.05 Zoning Official  
21.06 Bond

**21.01 PURPOSE.** The purpose of this chapter is to create the office of City Administrator and to set forth the duties and powers relative thereto.

**21.02 OFFICE CREATED.** The office of City Administrator is hereby created. The office shall be filled by a resolution adopted by majority vote of the Council. The person appointed shall hold office at the pleasure of the Council and shall be subject to removal by a resolution adopted by an affirmative four-fifths vote of the Council. The qualifications for the position shall include competency through education or experience to perform the duties placed upon the Administrator.

**21.03 COMPENSATION.** The City Administrator shall receive such compensation as may be established by resolution of the Council.

**21.04 DUTIES GENERALLY.** The general duties of the office are to coordinate and supervise the activities, policies, and procedures of the City. The Administrator is directly responsible to the Council for the administration of municipal affairs as directed by the Council. A specific job description for the position of Administrator shall be adopted by separate resolution of the Council and may be changed from time to time as may be warranted.

**21.05 ZONING OFFICIAL.** The Administrator shall serve as the Zoning Administrator and the building official.

**21.06 BOND.** The Administrator shall be bonded for the performance of duties in favor of the City, in the amount to be determined by the Council by resolution, but in no event shall the bond be less than \$10,000.00. The City shall pay the cost of the bond.

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## CHAPTER 22

### LIBRARY BOARD OF TRUSTEES

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

**22.01 PUBLIC LIBRARY.** The public library for the City is known as the Colfax 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 members. 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 January 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. The City Clerk shall serve as Board Treasurer, but shall not be a member of the Board.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, assistants, and employees

shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the Library Director, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.

6. Purchases. To select, or authorize the Library Director to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

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

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

*(Code of Iowa, Ch. 661)*

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

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

**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 & Ch. 28E)*

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Failure to Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material

or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

## CHAPTER 23

# PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission  
23.02 Term of Office  
23.03 Vacancies

23.04 Compensation  
23.05 Powers and Duties

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

*(Code of Iowa, Sec. 414.6 & 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 residue of the term shall be appointed in the same manner as the original appointee.

*(Code of Iowa, Sec. 392.1)*

**23.04 COMPENSATION.** All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

## CHAPTER 24

### PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Created  
24.02 Term  
24.03 Conduct of Business  
24.04 Compensation

24.05 Records and Reports  
24.09 Powers and Duties  
24.07 Liaison Officer

**24.01 PARKS AND RECREATION BOARD CREATED.** A Parks and Recreation Board (hereinafter referred to as the Park Board) is hereby created to advise the Council on needed facilities such as parks, playgrounds, community facilities or other forms of recreation. The Board shall oversee City programs and aid in the creation of new programs for the leisure time of the City's residents.

**24.02 TERM.** The members of the Board shall be appointed by the Council at the January Council meeting each year for a term of five years with staggered terms whereby not more than two terms shall expire in any one year. The Board shall consist of nine individuals of legal age. Two unexcused absences, or three absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Board.

**24.03 CONDUCT OF BUSINESS.** The Board shall at its first meeting in January of each year elect one of its members as Chairperson and such other officers as the Board shall deem necessary to conduct its business. The Board shall adopt such rules as it deems necessary to conduct its business and duties as required by this chapter. The Board meetings shall be conducted pursuant to the rules adopted by the Board and in the event of a specific rule not being adopted by the Board, *Robert's Rules of Order Revised* shall apply.

**24.04 COMPENSATION.** There shall be no compensation attached to the office of Park and Recreation Board member, and all services performed by said Board member shall be rendered without compensation therefor.

**24.05 RECORDS AND REPORTS.** The Board shall keep a record of all its transactions and proceedings and submit copies to the City Clerk and Council promptly.

**24.06 POWERS AND DUTIES.** The jurisdiction of the Board shall consist of all parks, pleasure grounds, and buildings acquired by it or owned by the City and set apart for leisure time or recreation, within or outside the City. The Board shall exercise, without request, the powers and duties set out herein, but the Council shall have final authority of said powers and duties. They are:

1. To recommend development of playgrounds and recreational facilities to the Council.
2. To monitor all facilities, appurtenances, fixtures and equipment owned by or under control of the City used for parks or recreation purposes.
3. To recommend items for purchase considered necessary for the operation of the parks and recreational facilities.

4. To aid, review and recommend charges for the use of parks and recreational facilities when applicable.
5. To seek citizens' input with and serve as a liaison between the residents of the City and Council and to promote City parks and recreational programs.
6. To recommend to the Council a long-term capital improvement program for parks and recreational facilities.
7. To recommend rules and regulations concerning the use of parks and other recreational facilities.

**24.07 LIAISON OFFICER.** A liaison officer will be supplied from the Council who will forward all recommendations of the Parks and Recreation Board to the Mayor and Council for their consideration.

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## CHAPTER 30

# POLICE DEPARTMENT

30.01 Department Established  
30.02 Organization  
30.03 Peace Officer Qualifications  
30.04 Required Training  
30.05 Compensation  
30.06 Peace Officers Appointed

30.07 Powers and Duties of Police Chief  
30.08 Departmental Rules  
30.09 Summoning Aid  
30.10 Taking Weapons  
30.11 Contract Law Enforcement

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

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

**30.06 PEACE OFFICERS APPOINTED.** The Mayor shall appoint and dismiss for just cause the Police Chief, subject to the consent of a majority of the Council. Other officers shall be selected as directed by 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)*

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

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

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

*(Code of Iowa, Sec. 804.17)*

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

*(Code of Iowa, Sec. 804.18)*

**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)*

## CHAPTER 31

### RESERVE PEACE OFFICERS

31.01 Establishment of Force  
31.02 Training  
31.03 Status of Reserve Officers  
31.04 Carrying Weapons  
31.05 Supplementary Capacity  
31.06 Supervision of Officers

31.07 No Reduction of Regular Force  
31.08 Compensation  
31.09 Benefits When Injured  
31.10 Liability and False Arrest Insurance  
31.11 No Participation in Pension Fund or Retirement System

**31.01 ESTABLISHMENT OF FORCE.** A force of reserve peace officers is hereby established. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law. The Police Chief is authorized to establish a testing and selection program in order to select qualified individuals for the position of reserve peace officer. Following the determination that a person is qualified to assume the duties of reserve peace officer, the Police Chief may then approve the individual to begin to receive training as a reserve officer.

*(Code of Iowa, Ch. 80D)*

**31.02 TRAINING.** Training for individuals appointed as reserve peace officers shall be provided by the Police Department under the direction of the Police Chief, but may be obtained in a community college or other facility selected by the individual and approved by the Police Chief. All standards and training required under Chapter 80D of the *Code of Iowa* constitute the minimum standards for reserve officers. Upon satisfactory completion of training, the Police Chief shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in Chapter 80D of the *Code of Iowa*.

*(Code of Iowa, Ch. 80D; Sec. 80D.4 & 80D.5)*

**31.03 STATUS OF RESERVE OFFICERS.** Reserve peace officers shall serve as peace officers on the orders and at the discretion of the Police Chief. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officer.

*(Code of Iowa, Sec. 80D.6)*

**31.04 CARRYING WEAPONS.** A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.

*(Code of Iowa, Sec. 80D.7)*

**31.05 SUPPLEMENTARY CAPACITY.** Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all the requirements of regular peace officers.

*(Code of Iowa, Sec. 80D.8)*

**31.06 SUPERVISION OF OFFICERS.** Reserve peace officers shall be subordinate to the regular peace officers, shall not serve as peace officers unless under the direction of a regular peace officer, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

*(Code of Iowa, Sec. 80D.9)*

**31.07 NO REDUCTION OF REGULAR FORCE.** There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

*(Code of Iowa, Sec. 80D.10)*

**31.08 COMPENSATION.** While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of \$1.00 per year. In addition to the above mentioned pay, the Police Chief may compensate reserve peace officers on an hourly basis, in the discretion of the Police Chief and subject to the approval of the Council. The hourly compensation shall be fixed from time to time by the Council.

*(Code of Iowa, Sec. 80D.11)*

**31.09 BENEFITS WHEN INJURED.** Hospital and medical assistance and benefits, as provided in Chapter 85 of the *Code of Iowa*, shall be provided by the Council to members of the reserve force who sustain injury in the course of performing official duties.

*(Code of Iowa, Sec. 80D.12)*

**31.10 LIABILITY AND FALSE ARREST INSURANCE.** Liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

*(Code of Iowa, Sec. 80D.13)*

**31.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM.** This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State of which regular peace officer may become members.

*(Code of Iowa, Sec. 80D.14)*

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## CHAPTER 35

### FIRE DEPARTMENT

35.01 Establishment and Purpose  
35.02 Organization  
35.03 Training  
35.04 Compensation  
35.05 Election of Officers  
35.06 Duties of Fire Chief  
35.07 Obedience to Fire Chief

35.08 Constitution  
35.09 Accidental Injury Insurance  
35.10 Liability Insurance  
35.11 Calls Outside City  
35.12 Mutual Aid  
35.13 Authority to Cite Violations  
35.14 Emergency Ambulance Service

**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 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])*

**35.04 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])*

**35.05 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)*

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

*(Code of Iowa, Sec. 102.2)*

5. Authority to Barricade. When in charge of a fire scene, place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the 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)*

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 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 & 100.3)*

9. Right of Entry. Have the right, during reasonable hours, to enter any building or premises within the Fire Chief's jurisdiction for the purpose of making such investigation or inspection 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)*

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

*(Code of Iowa, Sec. 100.13)*

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

12. 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.

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

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

**35.08 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.

**35.09 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)*

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

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

**35.11 CALLS OUTSIDE CITY.** The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

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

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

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

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

*(Code of Iowa, Sec. 100.41)*

**35.14 EMERGENCY AMBULANCE SERVICE.** The department is authorized to provide emergency ambulance or rescue services, and the accidental injury and liability insurance provided for herein shall include such operation.

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## CHAPTER 36

# HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose  
36.02 Definitions  
36.03 Cleanup Required  
36.04 Liability for Cleanup Costs

36.05 Notifications  
36.06 Police Authority  
36.07 Liability

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

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

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance.  
*(Code of Iowa, Sec. 455B.381[1])*

2. “Hazardous condition” means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State, or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.  
*(Code of Iowa, Sec. 455B.381[4])*

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.  
*(Code of Iowa, Sec. 455B.381[5])*

4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.  
*(Code of Iowa, Sec. 455B.381[7])*

**36.03 CLEANUP REQUIRED.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted

into the air or discharged into any waters, including 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 Police Chief or Sheriff 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 Police Chief or Sheriff shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief or Sheriff, who shall then notify the Department of Natural Resources.

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

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

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

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

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## CHAPTER 40

### PUBLIC PEACE

**40.01 Assault**  
**40.02 Harassment**  
**40.03 Disorderly Conduct**

**40.04 Unlawful Assembly**  
**40.05 Failure to Disperse**

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

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

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

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

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

7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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

C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

*(Code of Iowa, Sec. 723.5)*

*(Section 40.03 – Ord. 659 – Sep. 21 Supp.)*

**40.04 UNLAWFUL ASSEMBLY.** (Repealed by Ordinance No. 659 – Sep. 21 Supp.)

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

*(Code of Iowa, Sec. 723.3)*

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

*(Ord. 657 – Sep. 21 Supp.)*

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 708.12)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.11 DISCHARGING WEAPONS.**

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

**41.12 THROWING AND SHOOTING.** It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB

guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

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

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

**41.14 FIREWORKS.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:
  - A. “Consumer fireworks” includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Chapter 100 of the *Code of Iowa*. “Consumer fireworks” does not include novelties enumerated in Chapter 3 of the American Pyrotechnics Association (APA) Standard 87-1 or display fireworks enumerated in Chapter 4 of the APA Standard 87-1.
  - B. “Display fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.
  - C. “Novelties” includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.
2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa state fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving state aid. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:
  - A. Personal Injury: \$250,000.00 per person
  - B. Property Damage: \$50,000.00
  - C. Total Exposure: \$1,000,000.00
3. Consumer Fireworks.
  - A. No person under the age of 18 shall discharge a consumer firework without parental supervision.
  - B. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

C. Any person discharging a consumer fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.

D. It is unlawful for any person to use or explode consumer fireworks at times other than on the following dates and times specified:

(1) Between the hours of 9:00 a.m. and 10:30 p.m. on July 3 and July 4. *(Ord. 655 – Apr. 22 Supp.)*

(2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.

(3) 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.

E. It is unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.

4. **Sale of Consumer Fireworks.** It is unlawful for any person to offer for sale, expose for sale, or sell at retail consumer fireworks, unless such person holds a valid Consumer Fireworks Seller License pursuant to *Code of Iowa* Chapter 100.19. It is further unlawful to sell consumer fireworks to a person who is less than 18 years of age, and for any person who is less than 18 years of age to purchase or attempt to purchase consumer fireworks. Any person who violates any prohibition under this section shall be guilty of a simple misdemeanor.

*(Code of Iowa. Sec. 100.19 and 727.2)*

5. **Sale of Display Fireworks.** It is unlawful for any person to offer for sale, expose for sale, sell, display, or sell at retail any display fireworks, except that the City may permit the display of the same as set forth in Subsection 2 above.

*(Code of Iowa, Sec. 727.2(2))*

6. **Exceptions.** This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited by this section and which occurs in accordance with applicable building or zoning regulations; the sale of fireworks if they are to be shipped out of State; the sale or use of blank cartridges for a show or theatre, for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

*(Code of Iowa, Sec. 727.2(5))*

#### **41.15 OWNER OCCUPANT RESPONSIBILITY.**

1. No person or responsible party shall allow, permit, or otherwise consent to the display of consumer or display fireworks on the private property or an adjacent public way if such possession or display is in violation of City or State Code.

2. A person or responsible party with control of the private property shall be presumed to have consented to the display of fireworks on the property or adjacent way if law enforcement or fire officials observe and document the existence of the remnants of unlawful fireworks on the premises indicative of the use or display of such fireworks.

3. For purposes of this section, responsible party includes, but is not limited to:
  - A. The person(s) who owns, rents, leases, or otherwise has possession of the residence or other private property;
  - B. The person(s) in immediate control of the residence or other private property; and
  - C. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the illegal discharge or illegal storage of fireworks.
4. If the residence or other private property is rented or leased, the landlord or lessor is not covered by this section unless they fall within the category of persons described under Section (3)(A) or (C) of this definition. A landlord or lessor can only be held responsible under Section (3)(C) of this definition if he or she has knowledge that fireworks are being unlawfully discharged or stored on the property.

Any person or responsible party who violates the restrictions in Sections (1) or (2) above will be guilty of a municipal infraction and subject to a civil penalty of \$100.00 for each offense. The City may elect to initially charge these violations as a notice of violation pursuant to City Code Section 3.05.

*(Section 41.15 – Ord. 653 – Sep. 21 Supp.)*

**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)*

*(Ord. 656 – Sep. 21 Supp.)*

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## CHAPTER 42

# PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing  
42.02 Criminal Mischief  
42.03 Defacing Proclamations or Notices  
42.04 Unauthorized Entry

42.05 Fraud  
42.06 Theft  
42.07 Other Public Property Offenses

### 42.01 TRESPASSING.

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

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*Code of Iowa, Sec. 716.1*)

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

(*Code of Iowa, Sec. 716.1*)

**42.04 UNAUTHORIZED ENTRY.** No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said

building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

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

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

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## CHAPTER 43

# DRUG PARAPHERNALIA

### 43.01 Purpose

### 43.02 Controlled Substance Defined

### 43.03 Drug Paraphernalia Defined

### 43.04 Determining Factors

### 43.05 Possession of Drug Paraphernalia

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

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

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

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

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

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

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

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

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

4. A person shall not use or consume alcoholic, liquor, wine or beer, in any public park, including all park roads and parking areas in parks, except by approval of the Colfax Park and Auxiliary Board, by permit, or pursuant to a concession agreement, and provided that such use or consumption occurs at the following locations:

A. Inside the block building located at Colfax Park North, d/b/a Quarry Springs, as may be approved by the Colfax Park and Auxiliary Board.

No person shall be consuming alcohol or acting intoxicated or simulating intoxication in a City park or any area outside the block building.

*(Subsection 4 – Ord. 651 – Jun. 21 Supp.)*

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

*(Code of Iowa, Sec. 123.46)*

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

**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 eighteen, 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)*

## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

#### 46.01 CURFEW.

1. Purpose. 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 achieve the following purposes:

A. Reinforce the primary authority and responsibility of adults responsible for minors.

B. Protect the public from the illegal acts of minors committed individually and in groups after the curfew hour.

C. Protect minors from improper influences and criminal activity by individuals and groups that prevail in public places after the curfew hour.

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

A. "Curfew hours" means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 5:00 a.m. of the following day; and

(2) 12:01 a.m. until 5:00 a.m. on any Saturday or Sunday.

B. "Emergency" means any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious bodily injury or loss of life.

C. "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

D. "Guardian" means:

(1) A person who, under court order, is the guardian of the person of a minor or

(2) A public or private agency with whom a minor has been placed by a court.

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

F. “Minor” means any person under 18 years of age.

G. “Operator” means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment including the members or partners of an association or partnership and the officers of a corporation.

H. “Parent” means: (i) a person who is a natural parent, adoptive parent or step-parent of another person; or (ii) a person who is at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

I. “Public place” means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

J. “Remain” means to linger or stay or to fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

K. “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

3. Offenses.

A. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the City during curfew hours.

B. A parent or guardian commits an offense if he or she knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

C. The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

4. Defenses.

A. It is a defense to prosecution under Subsection 3 of this section that the minor was:

- (1) Accompanied by the minor’s parent or guardian;
- (2) On an errand at the direction of the minor’s parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor’s presence;
- (7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic

organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or other similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(9) Married or previously married or if said minor had disabilities of minority removed in accordance with Section 599 of the *Code of Iowa*.

B. It is a defense to prosecution under Paragraph 3(C) of this subsection that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

5. Enforcement.

A. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. In the absence of convincing evidence such as a birth certificate or driver's license, a police officer on the street shall, in the first instance, use his or her best judgment in determining age. The officer shall not issue a citation or take a minor into custody under this section unless the officer reasonably believes that an offense has occurred and that, based on the minor's response and other circumstances, no defense in Subsection 4 of this section is present.

B. A peace officer may take a minor into custody for violation of this section pursuant to Section 232.19 of the *Code of Iowa* for the limited purpose of detaining the minor until he or she can be reunited with the minor's family or guardian or other responsible adult or if the peace officer has probable cause to believe that the minor has committed a delinquent act which if committed by an adult would constitute a public offense. A peace officer who takes a minor into custody shall not place bodily restraints such as handcuffs on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

D. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor within a reasonable time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the minor or another adult person who is known to the minor.

## 6. Penalties.

A. Responsible Adult's First Violation - Warning. In the case of a first violation by a minor, the Police Chief or designee of the Police Chief shall, by certified mail or personal service, deliver to the adult responsible for the minor written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation - Municipal Infraction. 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 shall be guilty of a municipal infraction.

C. Minor's First Violation - Warning. In the case of a first violation by a minor, the peace 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.

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

E. Operator's First Violation - Warning. In the case of a first violation by an operator, the Police Chief or designee of the Police Chief shall, by certified mail or personal service, deliver to the operator written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against the operator, with applicable penalties.

F. Operator's Second Violation - Municipal Infraction. Any operator as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section shall be guilty of a municipal infraction.

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

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

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

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

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## CHAPTER 47

# PARK REGULATIONS

47.01 Purpose  
47.02 Use of Drives Required  
47.03 Fires  
47.04 Littering

47.05 Parks Closed  
47.06 Camping  
47.07 Ponds, Lakes, or Other Bodies of Water  
47.08 Parks Over 50 Acres

**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.** No person, except those camping in designated areas or those having special Park Commission approval, shall remain within any park from one-half hour after sunset until sunrise each day except Kelly Fields, which will remain open until scheduled ballgames are completed, and Lewis Park, which shall remain open until 11:00 p.m.

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

**47.07 PONDS, LAKES, OR OTHER BODIES OF WATER.** No person shall swim, ice fish, use or have on board a watercraft with a gasoline powered motor, except for emergency watercrafts, in any park except where specifically posted as allowed. Bow fishing will be allowed with proper licensing from the Department of Natural Resources.

**47.08 PARKS OVER 50 ACRES.** No person shall land or launch a drone or other unmanned aircraft system in parks over 50 acres without permission from City Hall staff or the Colfax Park and Recreation Auxiliary Board; dispose of fish on park grounds; or remove any plant, rocks, sand, or wildlife except mushrooms, fruits, vegetables, and fish.

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## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

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

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

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

*(Code of Iowa, Sec. 657.1)*

**50.02 NUISANCES ENUMERATED.** The following subsections include, but do not limit, the conditions 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 and Grass.** Dense growth of all weeds, vines, brush, grass or other vegetation within the City shall be cut on a periodic basis so that the height is never greater than eight inches in height.

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. Drug Paraphernalia **(See Chapter 43)**
3. Outside Parking and Storage of Vehicles **(See Chapter 71)**
4. Storage and Disposal of Solid Waste **(See Chapter 105)**
5. 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: <sup>†</sup>
  - A. Description of Nuisance. A description of what constitutes the nuisance.

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

- B. Location of Nuisance. The location of the nuisance.
  - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
  - D. Reasonable Time. A reasonable time within which to complete the abatement.
  - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or letter, sent by certified mail to the property owner, or delivered by a City employee.  
*(Code of Iowa, Sec. 364.12[3h])*
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.  
*(Code of Iowa, Sec. 364.12[3h])*
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.  
*(Code of Iowa, Sec. 364.12[3h])*
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.  
*(Code of Iowa, Sec. 364.12[3h])*
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.  
*(Code of Iowa, Sec. 364.13)*
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

**50.07 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

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

### 51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

As set forth herein, the term “unlicensed” shall include, but is not limited to, an unregistered vehicle (and which is not lawfully unregistered) or a vehicle that is required to, but does not, have a license plate on the front and/or rear of the vehicle. Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

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

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

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

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

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

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

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

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Owner's Duty
55.02 Animal Neglect	55.12 Confinement
55.03 Livestock Neglect	55.13 At Large: Impoundment
55.04 Abandonment of Cats and Dogs	55.14 Disposition of Animals
55.05 Livestock	55.15 Impounding Costs
55.06 At Large Prohibited	55.16 Authorization to Contact Animal Rescue League
55.07 Leash Requirements	55.17 Unhealthful or Unsanitary Conditions
55.08 Damage or Interference	55.18 Pet Awards Prohibited
55.09 Annoyance or Disturbance	55.19 Tampering with a Rabies Vaccination Tag
55.10 Limited Number of Animals Allowed	55.20 Tampering with an Electronic Handling Device

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

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

*(Code of Iowa, Sec. 162.2)*

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

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

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

- A. The sale or offer for sale of goods or services.
- B. A recruitment for employment or membership in an organization.
- C. A solicitation to make an investment.
- D. An amusement or entertainment activity.

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

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

7. "Fair" means any of the following:

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

- A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.

- B. An exhibition of agricultural or manufactured products.
  - C. An event for operation of amusement rides or devices or concession booths.
8. “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*)
9. “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*)
10. “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*)
11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
12. “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*)
13. “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*)
14. “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*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.  
(*Code of Iowa, Sec. 717.B1*)

## **55.02 ANIMAL NEGLECT.**

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

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

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

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

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

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

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

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

- (1) A condition caused by failing to provide for the animal's welfare as described in this section.
- (2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

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

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

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

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

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

livestock by any means that causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

*(Code of Iowa, Sec. 717.2)*

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

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or 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 LEASH REQUIREMENTS.** All animals at liberty and off the owner's property are to be on a leash at all times. If the animal is on the owner's property and "apparently" or "obviously" under the owner's control, the animal is not required to be on a leash and cannot be picked up for not being on a leash.

**55.08 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.

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

**55.10 LIMITED NUMBER OF ANIMALS ALLOWED.** It is unlawful, except for a licensed kennel or pet shop, veterinary hospital, or animal grooming shop, for an owner to harbor or house on the owner's premises more than three dogs or cats, or any combination thereof, over the age of six months. Permission may be granted by City Council for additional dogs or cats upon receipt of written request and proper documentation for therapy usage.

**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 by the County Animal Rescue League, 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 shall be as established by the Animal Rescue League, and there shall also be a pickup charge, in an amount set by resolution of the Council, paid to the City for each animal impounded.

**55.16 AUTHORIZATION TO CONTACT ANIMAL RESCUE LEAGUE.** Only the City Hall and City Police Department are authorized to contact the Animal Rescue League for animal impoundment. Persons not authorized to contact the Rescue League will be responsible for the cost incurred when the Rescue League comes to make the animal pickup.

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

**55.17 UNHEALTHFUL OR UNSANITARY CONDITIONS.**

1. An owner shall keep all structures, pens, coops, or yards wherein animals are confined clean, devoid of vermin, and free of odors arising from feces.
2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.
3. All feces removed as aforesaid shall be placed in an airtight container and shall be stored in a sanitary manner in an appropriate refuse container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.
4. An owner may, as an alternative to subsection 3 above, collect the feces and turn it under the surface of the owner's soil in any manner that prevents odor or collection of vermin.

**55.18 PET AWARDS PROHIBITED.**

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

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

**55.17 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:
  - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
  - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.
2. This section shall not apply to an act taken by any of the following:
  - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
  - B. A peace officer.
  - C. A veterinarian.
  - D. An animal shelter or pound.

**55.18 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:

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

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## CHAPTER 56

# LICENSING OF DOGS AND CATS

56.01 Annual License Required  
56.02 License Fees  
56.03 Delinquency  
56.04 License Tags  
56.05 License Records

56.06 Immunization  
56.07 Duplicate Tags  
56.08 Transfers of Licensed Dogs and Cats  
56.09 Kennel Dogs

### 56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog or cat over the age of six months shall procure a license from City Hall on or before April 1 of each year.
2. Such license may be procured after April 1 and at any time for a dog or cat which has come into the possession or ownership of the applicant or which has reached the age of six months after said date.
3. The owner of a dog or cat for which a license is required shall apply to City Hall on forms provided.
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog or cat shall be revaccinated.
5. All licenses shall expire on April 1 of the year following the date of issuance.

**56.02 LICENSE FEES.** The annual license fee shall be as established by resolution of the Council.

**56.03 DELINQUENCY.** All license fees shall become delinquent on the first day of April of the year in which they are due and a delinquent penalty set by resolution shall be added to each unpaid license on and after said date.

**56.04 LICENSE TAGS.** Upon receipt of the application and fee, the Clerk shall provide the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the City record book, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog or cat for which issued. A license issued for one dog or cat shall not be transferable to another dog or cat. Upon the expiration of the license the owner shall remove said tag from the dog or cat.

**56.05 LICENSE RECORDS.** City Hall shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.
2. The description of the dog or cat as specified in the application, together with the name of the owner of the dog or cat.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be revaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

**56.06 IMMUNIZATION.** Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months after the effective date of the license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog or cat.

**56.07 DUPLICATE TAGS.** Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of a fee established by resolution and the Clerk shall enter in the license record the new number assigned.

**56.08 TRANSFERS OF LICENSED DOGS AND CATS.** Upon transfer of a licensed dog or cat into the City, the owner shall surrender the original license tag to City Hall. The Clerk shall preserve the surrendered tag and, without a license fee, issue a new license tag.

**56.09 KENNEL DOGS.** Dogs kept in State or federally licensed kennels which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter. The keeping of three or more dogs for breeding purposes shall constitute a kennel business. Dog kennels are considered a business, not a home occupation, and shall be allowed only in properly zoned business districts.

## CHAPTER 57

# DANGEROUS AND VICIOUS ANIMALS

### 57.01 Definitions

### 57.02 Keeping of Dangerous Animals Prohibited

### 57.03 Keeping of Vicious Animals Prohibited

### 57.04 Seizure, Impoundment and Disposition

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

1. 1. “Dangerous animal” means: †
  - A. Badgers, wolverines, weasels, skunk and mink.
  - B. Raccoons.
  - C. Bats.
  - D. Scorpions.
1. 2. “Vicious animal” means 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 any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal: (i) has bitten more than one person during the animal’s lifetime; or (ii) has bitten one person on two or more occasions during the animal’s lifetime; or (iii) 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

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

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

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

60.05 Reports of Traffic Accidents  
60.06 Peace Officer's Authority  
60.07 Obedience to Peace Officers  
60.08 Parades Regulated

**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Colfax 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. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 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.
5. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

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

**60.03 ADMINISTRATION AND ENFORCEMENT.** Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the 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 & 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. Definition. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

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

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## CHAPTER 61

### TRAFFIC CONTROL DEVICES

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones  
62.06 Obstructing View at Intersections  
62.07 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.<sup>†</sup>
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.

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<sup>†</sup> **EDITOR’S NOTE:** *Code of Iowa* Section 321.235B was added as Subsection 162 in September 2021.

- 52. Section 321.295 – Limitation on bridge or elevated structures.
- 53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
- 54. Section 321.298 – Meeting and turning to right.
- 55. Section 321.299 – Overtaking a vehicle.
- 56. Section 321.302 – Overtaking and passing.
- 57. Section 321.303 – Limitations on overtaking on the left.
- 58. Section 321.304 – Prohibited passing.
- 59. Section 321.306 – Roadways laned for traffic.
- 60. Section 321.307 – Following too closely.
- 61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 62. Section 321.309 – Towing.
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers approaching blind persons.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.

86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver's view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.<sup>†</sup>
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.

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<sup>†</sup> **EDITOR'S NOTE:** *Code of Iowa* Section 321.366 was added as Subsection 163 in September 2021.

- 119. Section 321.404 – Signal lamps and signal devices.
- 120. Section 321.404A – Light-restricting devices prohibited.
- 121. Section 321.405 – Self-illumination.
- 122. Section 321.408 – Back-up lamps.
- 123. Section 321.409 – Mandatory lighting equipment.
- 124. Section 321.415 – Required usage of lighting devices.
- 125. Section 321.417 – Single-beam road-lighting equipment.
- 126. Section 321.418 – Alternate road-lighting equipment.
- 127. Section 321.419 – Number of driving lamps required or permitted.
- 128. Section 321.420 – Number of lamps lighted.
- 129. Section 321.421 – Special restrictions on lamps.
- 130. Section 321.422 – Red light in front.
- 131. Section 321.423 – Flashing lights.
- 132. Section 321.430 – Brake, hitch, and control requirements.
- 133. Section 321.431 – Performance ability.
- 134. Section 321.432 – Horns and warning devices.
- 135. Section 321.433 – Sirens, whistles, and bells prohibited.
- 136. Section 321.434 – Bicycle sirens or whistles.
- 137. Section 321.436 – Mufflers, prevention of noise.
- 138. Section 321.437 – Mirrors.
- 139. Section 321.438 – Windshields and windows.
- 140. Section 321.439 – Windshield wipers.
- 141. Section 321.440 – Restrictions as to tire equipment.
- 142. Section 321.441 – Metal tires prohibited.
- 143. Section 321.442 – Projections on wheels.
- 144. Section 321.444 – Safety glass.
- 145. Section 321.445 – Safety belts and safety harnesses; use required.
- 146. Section 321.446 – Child restraint devices.
- 147. Section 321.449 – Motor carrier safety regulations.
- 148. Section 321.449A – Rail crew transport drivers.
- 149. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
- 150. Section 321.450 – Hazardous materials transportation.
- 151. Section 321.454 – Width of vehicles.
- 152. Section 321.455 – Projecting loads on passenger vehicles.

- 153. Section 321.456 – Height of vehicles; permits.
- 154. Section 321.457 – Maximum length.
- 155. Section 321.458 – Loading beyond front.
- 156. Section 321.460 – Spilling loads on highways.
- 157. Section 321.461 – Trailers and towed vehicles.
- 158. Section 321.462 – Drawbars and safety chains.
- 159. Section 321.463 – Maximum gross weight.
- 160. Section 321.465 – Weighing vehicles and removal of excess.
- 161. Section 321.466 – Increased loading capacity; reregistration.
- 162. Section 321.235B – Low-speed electric bicycles. (*Ord. 660 – Sep. 21 Supp.*)
- 163. Section 321.366 – Acts prohibited on fully controlled-access facilities.  
(*Ord. 660 – Sep. 21 Supp.*)

**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. Violation of this section will be considered a non-moving violation.

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

#### 63.02 State Code Speed Limits

#### 63.03 Parks, Cemeteries, and Parking Lots

#### 63.04 Special Speed Zones

#### 63.05 Minimum Speed

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

*(Code of Iowa, Sec. 321.285)*

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

1. Business District – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

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

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

1. Special 15 MPH Speed Zone. A speed in excess of 15 miles per hour is unlawful on North Park Road.

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

*(Code of Iowa, Sec. 321.290)*

1. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On State Street from South Thomas Street to Walnut Street.
  - B. On South League Road from south corporate limit to Division Street.
  - C. On East State Street from Walnut Street to 100 feet east of Goodrich Street.

2. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On State Street from west corporate limit to South Thomas Street.
  - B. On East State Street from 100 feet east of Goodrich Street to the east corporate limits.
3. Special 55 MPH Speed Zones. A speed in excess of 55 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On West State Street from 235 feet west of Hastings Street to the west City limits.
  - B. On South League Road from Olive Avenue to south 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  
**64.02** U-Turns

**64.03** Left Turn for Parking

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

*(Code of Iowa, Sec. 321.311)*

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

The 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 and at intersections where there are automatic traffic signals.

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

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

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

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

*(Code of Iowa, Sec. 321.345)*

1. S. Oak Park Avenue. Vehicles traveling north and south on S. Oak Park Avenue shall stop at Blake Street.
2. S. Oak Park Avenue. Vehicles traveling north and south on S. Oak Park Avenue shall stop at E. State Street.
3. Chautauqua Avenue. Vehicles traveling west on Chautauqua Avenue shall stop at E. State Street.
4. N. Oak Park Avenue. Vehicles traveling south on N. Oak Avenue stop at E. Howard Street.
5. College Street. Vehicles traveling south on College Street shall stop at Clark Street.
6. College Street. Vehicles traveling south on College Street shall stop at E. Division Street.
7. S. Hastings Street. Vehicles traveling north on Hastings Street shall stop at W. State Street.
8. Lake Street. Vehicles traveling west on Lake Street shall stop at Goodrich Street.
9. Ryan Street. Vehicles traveling south on Ryan Street shall stop at Cherry Street.
10. Ryan Street. Vehicles traveling north on Ryan Street shall stop at Elm Street.
11. Ryan Street. Vehicles traveling north on Ryan Street shall stop at E. State Street.
12. Ryan Street. Vehicles traveling north on Ryan Street shall stop at E. Broadway Street.
13. Boise Street. Vehicles traveling north on Boise Street shall stop at Holland Street.
14. Holland Street. Vehicles traveling east on Holland Street shall stop at Lincoln Street.
15. Spring Street. Vehicles traveling west and east on Spring Street shall stop at S. Locust Street.

16. Spring Street. Vehicles traveling west and east on Spring Street shall stop at S. West Street.
17. Spring Street. Vehicles traveling west on Spring Street shall stop at S. Kelly Street.
18. Spring Street. Vehicles traveling west and east on Spring Street shall stop at S. Madison Street.
19. Spring Street. Vehicles traveling east on Spring Street shall stop at S. Walnut Street.
20. Spring Street. Vehicles traveling east and west on Spring Street shall stop at S. Oak Park Street.
21. Clark Street. Vehicles traveling east on Clark Street shall stop at League Road.
22. Division Street. Vehicles traveling east on Division Street shall stop at League Road.
23. Division Street. Vehicles traveling west and east on Division Street shall stop at Walnut Street.
24. Division Street. Vehicles traveling west and east on Division Street shall stop at Locust Street.
25. W. Peasant Street. Vehicles traveling east and west shall stop at S. Locust Street.
26. Locust Street. Vehicles traveling north on Locust Street shall stop at Front Street.
27. Locust Street. Vehicles traveling north on Locust Street shall stop at W. State Street.
28. Locust Street. Vehicles traveling south on Locust Street shall stop at High Street.
29. Thomas Street. Vehicles traveling south and north on Thomas Street shall stop at W. Pleasant Street.
30. High Street. Vehicles traveling east and west on High Street shall stop at Hastings Street.
31. Federal Avenue. Vehicles traveling on Federal Avenue shall stop at North Walnut Street (Highway 117).
32. Orchard Avenue. Vehicles traveling on Orchard Avenue shall stop at North Walnut Street (Highway 117).
33. Interstate 80. Vehicles exiting Interstate 80 eastbound shall stop at North Walnut Street (Highway 117).
34. High Street. Vehicles traveling east on High Street shall stop at Walnut Street.
35. Lincoln Street. Vehicles traveling north and south on Lincoln Street shall stop at the T-intersection with East Broadway Street.
36. Lincoln Street. Vehicles traveling north and south on Lincoln Street shall stop at E. State Street.

37. Lincoln Street. Vehicles traveling north and south on Lincoln Street shall stop at E. Spring Street.
38. Lincoln Street. Vehicles traveling north and south on Lincoln Street shall stop at E. Division Street.
39. Lincoln Street. Vehicles traveling north and south on Lincoln Street shall stop at E. Howard Street.
40. Lincoln Street. Vehicles traveling north and south on Lincoln Street shall stop at E. Front Street.
41. S. Lincoln Street. Vehicles traveling north on Lincoln Street shall stop at E. Chautauqua Avenue.
42. North Park. Vehicles traveling west on North Park shall stop at Orchard Avenue.
43. Kum and Go. Vehicles traveling north from Kum and Go shall stop at Orchard Avenue.
44. Quarry Springs Park. Vehicles traveling west on North Park Road from Quarry Springs Park shall stop at frontage road.
45. S. West Street. Vehicles traveling north and south on S. West Street shall stop at W. State Street.
46. S. West Street. Vehicles traveling north and south on S. West Street shall stop at W. Division Street.
47. S. Madison Street. Vehicles traveling north and south on S. Madison Street shall stop at W. State Street.
48. S. Madison Street. Vehicles traveling north on S. Madison Street shall stop at W. Division Street.
49. S. Montgomery Street. Vehicles traveling north and south on S. Montgomery Street shall stop at E. Spring Street.
50. S. Montgomery Street. Vehicles traveling north and south on S. Montgomery Street shall stop at W. Washington Street.
51. Wall Street. Vehicles traveling north and south on Wall Street shall stop at W. State Street.
52. Wall Street. Vehicles traveling north and south on Wall Street shall stop at W. Spring Street.
53. Wall Street. Vehicles traveling north and south on Wall Street shall stop at W. Broadway Street.
54. Wall Street. Vehicles traveling north on Wall Street shall stop at W. Division Street.
55. W. Pleasant Street. Vehicles traveling east and west on W. Pleasant Street shall stop at S. Madison Street.
56. W. Pleasant Street. Vehicles traveling east and west W. Pleasant Street shall stop at S. Wall Street.

57. W. Pleasant Street. Vehicles traveling east and west W. Pleasant Street shall stop at S. Montgomery Street.
58. W. Pleasant Street. Vehicles traveling east and west W. Pleasant Street shall stop at S. West Street.
59. W. Pleasant Street. Vehicles traveling west W. Pleasant Street shall stop at S. Hastings Street.
60. W. Pleasant Street. Vehicles traveling east W. Pleasant Street shall stop at S. Walnut Street.
61. Cherry Street. Vehicles traveling east on Cherry Street shall stop at S. Lincoln Street.
62. Cherry Street. Vehicles traveling west on Cherry Street shall stop at S. Walnut Street.
63. Weaver Street. Street Vehicles traveling west on Weaver Street shall stop at S. Walnut Street.
64. Laramie Street. Vehicles traveling north on Laramie Street shall stop at E. State Street.
65. Broadway Street. Vehicles traveling east and west on Broadway Street shall stop at S. Walnut Street.
66. Broadway Street. Vehicles traveling east and west on Broadway Street shall stop at S. Madison Street.
67. Broadway Street. Vehicles traveling east and west on Broadway Street shall stop at S. Montgomery Street.
68. E. Washington Street. Vehicles traveling east and west shall stop at S. Oak Park Avenue.
69. E. Washington Street. Vehicles traveling east shall stop at S. Iowa Street.
70. E. Washington Street. Vehicles traveling west shall stop at S. Walnut Street.
71. W. Washington Street. Vehicles traveling east and west shall stop at Wall Street.
72. W. Washington Street. Vehicles traveling east and west shall stop at S. Madison Street.
73. W. Washington Street. Vehicles traveling east and west shall stop at S. Kelly Street.
74. W. Washington Street. Vehicles traveling east shall stop at S. Walnut Street.
75. Howard Street. Vehicles traveling east and west shall stop at N. Walnut Street.
76. W. Howard Street. Vehicles traveling west shall stop N. Locust Street.
77. Front Street. Vehicles traveling east and west on Front Street shall stop at N. Walnut Street.
78. S. Kelly Street. Vehicles traveling north and south on S. Kelly Street shall stop at W. State Street.

79. S. Kelly Street. Vehicles traveling north and south on S. Kelly Street shall stop at W. Pleasant Street.
80. Iowa Street. Vehicles traveling north and south on Iowa Street shall stop at E. Front Street.
81. Iowa Street. Vehicles traveling north and south on Iowa Street shall stop at E. Howard Street.
82. Iowa Street. Vehicles traveling north and south on Iowa Street shall stop at E. Broadway Street.
83. Vine Street. Vehicles traveling east Vine Street shall stop at S. Lincoln Street.
84. Elm Street. Vehicles traveling north and south on Elm Street shall stop at E. Division Street.
85. N. Elm Street. Vehicles traveling north on N. Elm Street shall stop at E. Front Street.
86. S. Elm Street. Vehicles traveling south on S. Elm Street shall stop at E. Broadway Street.
87. N. Elm Street. Vehicles traveling north on N. Elm Street shall stop at E Howard Street.
88. N. Maple Street. Vehicles traveling north and south on N. Maple Street shall stop at E. Howard Street.
89. N. Maple Street. Vehicles traveling north on N. Maple Street shall stop at E. Front Street.
90. N. Maple Street. Vehicles traveling south on N. Maple Street shall stop at E. Division Street.
91. S. Goodrich Street. Vehicles traveling north and south on S. Goodrich Street shall stop at E. State Street.
92. S. Goodrich Street. Vehicles traveling north on S. Goodrich Street shall stop at E. Division Street.
93. S. Goodrich Street. Vehicles traveling south on S. Goodrich Street shall stop at Chautauqua Avenue.
94. E. Spring Street. Vehicles traveling west on E. Spring Street shall stop at Ryan Street.
95. Thomas Street. Vehicles traveling north on Thomas Street shall stop at W. State Street.
96. High Street. Vehicles traveling west on High Street shall stop at West Street.
97. Thomas Street. Vehicles traveling south on Thomas Street shall stop at High Street.
98. High Street. Vehicles traveling east on High Street shall stop at West Street.
99. W. Washington Street. Vehicles traveling east on W. Washington Street shall stop at S. Locust Street.
100. E. Washington Street. Vehicles traveling east and west on E. Washington Street shall stop at S. Oak Park Avenue.

101. E. Washington Street. Vehicles traveling east on E. Washington Street shall stop at S. Goodrich Street.
102. E. Washington Street. Vehicles traveling west on E. Washington Street. shall stop at S. Lincoln Street.
103. E. Spring Street. Vehicles traveling east and west on E. Spring Street shall stop at S. Iowa Street.
104. E. Spring Street. Vehicles traveling east on E. Spring Street shall stop at S. Goodrich Street.
105. S. West Street. Vehicles traveling north and south on S. West Street shall stop at W. Broadway Street.
106. W. Washington Street. Vehicles traveling east on W. Washington Street shall stop at S. Locust Street.
107. S. Montgomery Street. Vehicles traveling north and south on S. Montgomery Street shall stop at W. State Street.

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

1. Walnut Street and State Street. Vehicles approaching the intersection of Walnut Street and State Street from the south, east and west shall stop before entering such intersection.
2. Chautauqua Street and Oak Park Avenue. Vehicles approaching the intersection of Chautauqua Street and Oak Park Avenue from the south, east and west shall stop before entering such intersection.
3. Oak Park Avenue and Division Street. Vehicles approaching the intersection of Oak Park Avenue and Division Street from the north, south and west shall stop before entering such intersection.

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

*(Code of Iowa, Sec. 321.345)*

1. Intersection of Kelly Street and Broadway Street.
2. Intersection of Broadway Street and Locust Street.
3. Intersection of Iowa Street and Division Street.
4. Intersection of Montgomery Street and Division Street.
5. Intersection of West Street and West Washington Street.
6. Intersection of Goodrich Street and Blake Street.
7. Intersection of West Broadway and South Madison. *(Ord. 665 – Apr. 22 Supp.)*

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

*(Code of Iowa, Sec. 321.345)*

1. Elm Street. Vehicles traveling on Elm Street shall yield at Washington Street.

2. Chautauqua Street. Vehicles traveling southeast on Chautauqua Street shall yield at Goodrich Street.
3. Montgomery Street. Vehicles traveling on Montgomery Street shall yield at High Street.
4. High Street. Vehicles traveling on High Street shall yield at Wall Street.

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

*(Code of Iowa, Sec. 321.249)*

1. Intersection of Walnut Street and Washington Street.

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

*(Code of Iowa, Sec. 321.353)*

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

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

*(Code of Iowa, Sec. 321.327)*

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## CHAPTER 66

# LOAD AND WEIGHT RESTRICTIONS

**66.01 Temporary Embargo**

**66.02 Permits for Excess Size and Weight**

**66.03 Load Limits Upon Certain Streets**

**66.04 Load Limits on Bridges**

**66.05 Truck Routes**

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

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

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

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

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

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

- NONE -

**66.04 LOAD LIMITS ON BRIDGES.** Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Police Chief 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 10 tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

*(Code of Iowa, Sec. 321.473)*

- A. Walnut Street from north City limits to State Street.
- B. All of East and West State Street from east to west City limits.
- C. South League Road.
- D. West Front Street from North Walnut Street to West Street.

- E. West Street from West Front Street to West Division.
  - F. West Division Street from West Street to Kelly Street.
  - G. Kelly Street from West Division Street to West State Street.
2. Deliveries Off Truck Route. Any motor vehicle weighing 10 tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.  
*(Code of Iowa, Sec. 321.473)*
3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.  
*(Code of Iowa, Sec. 321.473)*

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## **CHAPTER 67**

### **PEDESTRIANS**

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

**67.03 Pedestrian Crossing**  
**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. North Elm Street shall be northbound only from East Howard Street to East Front Street.
2. The north-south alley connecting Howard Street and Division Street between Walnut Street and Elm Street shall be one-way northbound.
3. West Washington Street between Walnut Street and Locust Street (one-half block) shall be eastbound only.
4. The north-south alley connecting West Washington Street and West Division Street shall be one-way southbound only.

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## CHAPTER 69

# PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.08 Compact Car Parking Spaces
69.02 Parking on One-Way Streets	69.09 No Parking Zones
69.03 Angle Parking	69.10 Truck Parking Limited
69.04 Manner of Angle Parking	69.11 Snow and Ice
69.05 Parking for Certain Purposes Illegal	69.12 Snow Routes
69.06 Parking Prohibited	69.13 Special Parking Regulations
69.07 Persons with Disabilities Parking	

**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. West Howard Street on the north side from Walnut Street to Locust Street.
2. East Howard Street on the south side from Elm Street to Walnut Street.
3. North Elm Street on both sides from East Howard Street to East Front 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 24 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

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

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

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

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

conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

19. Parking Inside the City Limits.

A. No person may park any unlicensed commercial, agricultural or industrial equipment or machinery in a parking space, on a sidewalk or alley of the downtown business district.

B. For purposes of this requirement, the downtown business district is defined as Walnut Street from the railroad tracks to Division Street, Front Street from West Street to Elm Street, Howard Street from Locust Street to Elm Street, Division Street from Locust Street to Elm Street, Elm street from Division Street to Front Street and Locust Street from Division Street to Front Street and all alleys falling inside these boundaries.

C. No person may park any vehicle between 2:00 a.m. and 6:00 a.m. daily year around in the downtown business district as defined in Paragraph B of this subsection, with the exception of the west side of Elm Street between Howard and Front Streets.

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

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

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

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

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

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

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

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

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

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

4. Parking Spaces. The following parking spaces have been established for persons with disabilities.

A. On the west side of the 200 block of North Walnut Street directly in front of Mineral Springs Park.

B. In the 10 block of West Division Street directly in front of the Colfax Public Library.

C. At the first diagonal parking space, on the north side of West Howard Street 30 feet west of North Walnut Street.

D. At the first parking space south of the alley on the east side of the 100 block of North Walnut Street.

E. On the south side of West Broadway Street, between South Walnut Street and South Locust Street, two stalls just west of the north/south alley.

F. North side of East Howard in front of the Catholic Church.

**69.08 COMPACT CAR PARKING SPACES.** Compact car parking spaces are established as follows:

1. On the southeast and southwest corners of North Walnut Street at Front Street.

2. On the northeast, southwest, and southeast corners of the intersection of North Walnut Street at Howard Street.

3. On the northeast corner of North Walnut Street and Division Street.

A vehicle is not considered a compact vehicle if it exceeds either five feet (60 inches) in height or 16.5 feet in length.

*(Section 69.08 – Ord. 663 – Sep. 21 Supp.)*

**69.09 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. North Walnut Street on the west side from West Howard Street to 115 North Walnut Street.
2. Within 100 feet south on North Oak Park from the intersection of North Oak Park and Front Street.
3. Within 100 feet west on Front Street from the intersection of North Oak Park and Front Street.
4. At both curbs of Division Street within 100 feet of its intersection with Kelly Street.
5. West Howard Street on the north side from its intersection with North Walnut Street west 30 feet.
6. On the north side of Chautauqua Avenue, at said street's intersection with South Oak Park east to its intersection with South Goodrich Street; and on the south side of Chautauqua Avenue from its intersection with South Oak Park Avenue to the north-south alley connecting Chautauqua Avenue and Blake Street between South Oak Park Avenue and South Goodrich Street.
7. In the alley beginning at West Division Street and running north to the east-west alley connecting North Locust Street and North Walnut Street.
8. On the north side of East Division Street from Elm Street to League Road and no parking on the south side of East Division Street from Elm Street to Maple Street.
9. On the south side of East Division Street on weekdays, during the hours between 7:30 a.m. to 5:00 p.m.
10. On the south side of East Howard Street from North Elm Street to North Oak Park Avenue.
11. On the east side of Oak Park Avenue from East Howard Street to East State Street.
12. On the north and south sides of West State Street from South Walnut Street to the west City limits.
13. On the north and south sides of East State Street (Highway 117) from South Walnut Street to the east City limits.
14. On the south side of East Front Street from North Elm Street to North Oak Park Avenue.
15. On the east and west sides of South Walnut Street from Division Street to State Street.
16. On the east and west sides of North Walnut Street from the south side of the Skunk River bridge to the north City limits.

17. On the west side of South Locust Street from West Pleasant Street to West High Street.
18. On the north side of West Spring Street from South West Street to South Montgomery Street.
19. On the east side of South Montgomery Street to the east/west alley between South West Street and South Montgomery Street.
20. On the west side of South Kelly Street from West Division Street to West State Street.
21. On the west side of South Locust Street from West Division Street to West Spring Street between the hours of 7:30 a.m. to 5:00 p.m. on weekdays.
22. On the east and west sides of South Ryan Street from East State Street to Holland Street.
23. On the south side of Holland Street from South Ryan Street to Boise Street and on the north side of Holland Street for 100 feet east of South Ryan Street.
24. Along yellow painted curbs or yellow marked areas, designated no parking areas, in the City.
25. On the south side of Jefferson Street from the intersection of Iowa Street and Jefferson Street to the dead end.
26. On North League Road from the north High School driveway to the north end of North League Road on the east side of the road.
27. On East Broadway Street from South Walnut Street to Elm Street.
28. On the north and south sides of North Park Road.
29. On the east side of Walnut Street between State and Weaver Street.
30. On residential streets platted after March 1, 2020. No parking on the south or west sides of the street.

**69.10 TRUCK PARKING LIMITED.** No person shall park or leave unattended a semi-tractor, semi-trailer, or other motor vehicle with a trailer attached which is in excess of 16 feet in length or which has a freight capacity greater than one ton on any public street except designated areas within the City excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo. When actually receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than 30 minutes.

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

**69.11 SNOW AND ICE.** From November 1 through March 31, all vehicles must be parked off the streets once snow accumulates to the depth of one inch with more expected and remain parked off the traveled portion of the street until 48 hours after the snowfall ends. The exception is that parking is allowed in the downtown area except from 2:00 a.m. to 6:00 a.m. daily.

**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])*

**69.13 SPECIAL PARKING REGULATIONS.**

1. With approval of the Mayor, the Police Department may impose regulations on parking on City streets and property as needed to accommodate special events which, due to their nature, create special traffic considerations requiring specific parking regulations for a limited period of time. Said regulations or prohibitions as may be imposed will be clearly marked and posted with temporary signage.
2. An owner or operator of a vehicle in violation of the provisions of this section shall, in addition to receiving a parking citation, be responsible for towing expenses, and said vehicle violating the provisions of this section may be towed from the public streets within the City whenever said vehicle constitutes a traffic hazard.
3. Such special parking regulations shall be set out in a written notice signed by the Police Chief and approved by the Mayor and filed with the Clerk for public inspection no later than 24 hours prior to the application of said parking regulations.

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## CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation  
70.02 Scheduled Violations  
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended  
70.05 Presumption in Reference to Illegal Parking  
70.06 Impounding Vehicles

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

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

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

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$10.00 for all violations except snow route parking<sup>†</sup> violations, truck 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 and truck 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] & 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

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<sup>†</sup> A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.12.)

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 71

# OUTSIDE PARKING AND STORAGE OF VEHICLES

### 71.01 Definitions

### 71.02 Declaration of Nuisance

### 71.03 Unlawful Parking and Storage

### 71.04 Exceptions

**71.01 DEFINITIONS.** For use in this chapter, the following words are defined:

1. “Fifth-wheel travel trailer” means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed 42 feet.
2. “Front yard area” means all that area between the front property line and a line drawn along the front face or faces of the principal structure on the property and extended to the side property line. The front shall be determined by the address assigned to the property.
3. “Motor home” means a motor vehicle designed as an integral unit to be used as a conveyance upon the public streets and highways and for use as a temporary or recreational dwelling and having at least four of the following permanently installed systems which meet American National Standards Institute and National Fire Protection Association standards in effect on the date of manufacture:
  - A. Cooking facilities.
  - B. Ice box or mechanical refrigerator.
  - C. Portable water supply including plumbing and a sink with faucet either self-contained or with connection for external water disposal or both.
  - D. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal or both.
  - E. Heating or air-conditioning system or both, separate from the vehicle engine or the vehicle engine electrical system.
  - F. A 110/115 volt alternating current electrical system separate from the vehicle engine electrical system.
4. “Outside” means to be outside of an enclosed storage facility and visible from any other property, including the public right-of-way.
5. “Side yard corner lot” means the yard area adjacent to the street right-of-way on a corner lot extending from the front yard along the side of the structure to the rear property line.
6. “Trailer” means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that only the tongue weight rests upon the towing vehicle.
7. “Travel trailer” means a 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 to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight and one-half feet in

width and its overall length shall not exceed 42 feet unless width and length are in conflict with Chapter 321 of the *Code of Iowa*. Such vehicle shall be customarily or ordinarily used for vacation or recreational purposes and may not be used as a place of permanent habitation. If any such vehicle is used as a place of human habitation for more than 90 consecutive days in one location, it shall be classed as a mobile home regardless of the size limitations herein provided.

8. "Driveway" means the hard surface area leading from the street or alley, whichever is the shortest/most direct route, to the nearest City right-of-way, whether an alley or street, to a garage not to exceed one and one-half times the width of the garage with a maximum of 36 feet wide. In the case of no garage, the one hard surfaced area not to exceed 24 feet wide from the street or alley to a house or to a location where a garage could be, by ordinance. There may be no more than a single driveway per addressed location.

**71.02 DECLARATION OF NUISANCE.** The outside parking and storage on property used for residential purposes, including the area between the property line and the edge of the street or alley, of more than four vehicles, water craft, trailers, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (i) obstructs views on streets and private property; (ii) creates cluttered and otherwise unsightly areas; (iii) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and (iv) otherwise adversely affects property values and neighborhood patterns.

**71.03 UNLAWFUL PARKING AND STORAGE.**

1. No person may place, store or allow the placement or storage of ice fish houses, skateboard ramps or other similar non-permanent structures outside continuously for longer than 24 hours in the front yard area or side yard corner lots of property used for residential purposes.

2. No person may place, store or allow the placement or storage of pipe, lumber, forms, steel, machinery or similar materials including all materials used in connection with a business, outside on property used for residential purposes.

3. No person shall cause, undertake, permit or allow the outside parking and storage of vehicles on property used for residential purposes unless it complies with the following requirements: Parking or storing of water craft or trailers is prohibited within the front yards. Parking and storage of water craft or trailers is also prohibited on side yard corner lots. However, water craft or trailer parking is permitted on side yard corner lots where the rear yard is not accessible.

**71.04 EXCEPTIONS.** The prohibitions of this chapter do not apply to the following:

1. Any motor vehicle parked on a driveway.
2. Any motor truck, pickup truck or similar vehicle being used by a public utility, moving company or similar company, which is actually being used to serve a residence not belonging to or occupied by the operator of the vehicle.
3. Any vehicle which is actually making a pickup or delivery at the location where it is parked. Parking for any period of time beyond the period of time reasonably necessary to make such pickup or delivery is prohibited.

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## CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Hours of Operation

75.07 Negligence

75.08 Accident Reports

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

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

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

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

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

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

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

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

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

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

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

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

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or

ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Thaw Ban. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

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

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

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

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

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

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

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

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

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

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

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

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

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

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

E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City to a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City.

**75.06 HOURS OF OPERATION.** No snowmobile or ATV shall be operated in the City between the hours of 10:00 p.m. and 7:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

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

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

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

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

## CHAPTER 76

### BICYCLE REGULATIONS

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

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.397)*

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

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

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

## CHAPTER 77

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

### 77.01 Purpose

### 77.02 Definitions

### 77.03 Operation Prohibited in Certain Areas

### 77.04 Use of Sidewalks

### 77.05 Use on Streets

### 77.06 Time Restriction

**77.01 PURPOSE.** The purpose of this chapter is to provide reasonable rules and regulations for the use and operation of skateboards, roller skates, in-line skates and scooters, and to establish areas where the use and operation of the same are prohibited for the protection, safety and general welfare of the public in the City.

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

1. “Roller skates” or “in-line skates” means skates with wheels instead of a runner.
2. “Scooter” means a child’s vehicle consisting of a narrow board mounted on two wheels tandem and guided by a handle attached to the front wheel, on which the operator stands with one foot on the board and pushes with the other.
3. “Skateboard” means a foot, motor, or wind propelled vehicle consisting of a board equipped with two or more wheels tandem and guided by the user or rider standing on same and pushing same with foot power or operating with motor or wind power.

**77.03 OPERATION PROHIBITED IN CERTAIN AREAS.** Skateboards, roller skates, in-line skates, and scooters are prohibited from public parks, and from the following streets and sidewalks within the corporate limits of the City, namely:

1. Upon the sidewalks within any Business District; and
2. Upon any streets within the following area:

*Commencing at the center of Front Street and Elm Street, running thence west in the center of Front Street to the center of Locust Street, thence south along the center of Locust Street to the center of Division Street, thence east along the center of Division Street to the center of Elm Street and thence north along the center of Elm Street to the place of beginning.*

**77.04 USE ON SIDEWALKS.** Whenever any person is using a skateboard, roller skates, in-line skates, or scooter upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

**77.05 USE ON STREETS.** Anyone using a skateboard, roller skates, in-line skates, or scooter in the street shall:

1. Observe all traffic control devices and be subject to all the duties applicable to the use of vehicles as required by statute or ordinance;
2. Stay as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

**77.06 TIME RESTRICTION.** No person shall use or operate any skateboard, roller skates, in-line skates, or scooter upon any sidewalk or street between the hours of dusk and dawn.

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# CHAPTER 78

## GOLF CARTS AND OTHER OFF-ROAD UTILITY VEHICLES

78.01 Purpose  
78.02 Definitions  
78.03 Traffic Code Applies  
78.04 Riding of UTVs  
78.05 Prohibited Areas

78.06 Driver's License Required  
78.07 Equipment  
78.08 Hours of Operation  
78.09 Registration

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

**78.02 DEFINITIONS.** “Off-road vehicle, or “UTV” as defined in Iowa Code Section 3211.1(17)(a), 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. A golf cart is a UTV.

**78.03 TRAFFIC CODE APPLIES.** Every person operating a UTV upon a street or alley shall be granted all of the rights and privileges and shall be subject to all the duties and obligations applicable to the driver of a vehicle and to the laws of the State declaring the rules of the road applicable to the driver of the vehicle, except as to those provisions which by their nature can have no application.

**78.04 RIDING ON UTVs.** A person operating a UTV shall not ride other than on a permanent regular seat attached thereto. No UTV shall be used to carry more persons at one time than the number for which it is designed and equipped.

**78.05 PROHIBITED AREAS.**

1. UTVs shall not be operated upon Iowa Highway 117 or County Road F48 within the City limits, however, golf carts may cross said highways.
2. UTVs shall not be operated upon any sidewalk.

**78.06 DRIVER'S LICENSE REQUIRED.** Any person operating a UTV upon any City street shall possess a valid motor vehicle license issued by the State.

**78.07 EQUIPMENT.** UTVs operated upon any street shall be equipped with a slow-moving vehicle sign, a bicycle safety flag, and a proof of registration sticker at all times during operation, and shall have adequate brakes.

**78.08 HOURS OF OPERATION.** UTVs may be operated on City streets only from sunrise to sunset.

**78.09 REGISTRATION.** UTVs operated on City streets are not required to be registered under Chapter 321 of the *Code of Iowa*; however, the operator of a UTV is subject to the financial responsibility provisions of Chapter 321A of the *Code of Iowa*. Individuals who operate on roadways in the City must register their UTVs with the City. There will be a yearly fee of \$25.00 for the City. The following needs to be provided when registering;

1. A valid driver's license.
2. Proof of insurance showing a special rider on your auto policy listing the UTV as additionally insured.

Registration is due March 1 and is valid for one year.

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## CHAPTER 80

### ABANDONED VEHICLES

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	80.10 Limitation on Liability; Penalty for Abandonment

**80.01 DEFINITIONS.** For use in this chapter, the following terms are defined:  
(*Code of Iowa, Sec. 321.89[1] & Sec. 321.90*)

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

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

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

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

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

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

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

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

*(Section 80.03 – Ord. 661 – Sep. 21 Supp.)*

**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])*

*(Section 80.04 – Ord. 661 – Sep. 21 Supp.)*

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder, or claimant shall pay impounding fees as set by resolution of the Council plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

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

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

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

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

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

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

**80.10 LIMITATION ON LIABILITY; PENALTY FOR ABANDONMENT.**

1. No person, firm, corporation, unit of government, garage keeper, or police authority upon whose property an abandoned vehicle is found or who disposes of such abandoned vehicle in accordance with this chapter, shall be liable for damages by reason of the removal, sale or disposal of such vehicle.
2. Any person who abandons a vehicle shall be guilty of a simple misdemeanor.

*(Code of Iowa, Sec. 321.91)*

## CHAPTER 81

# RAILROAD REGULATIONS

81.01 Definitions  
81.02 Obstructing Streets

81.03 Crossing Maintenance  
81.04 Speed

**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 & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])*

*(Code of Iowa, Sec. 364.11)*

**81.04 SPEED.** It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than 25 miles per hour.

*(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])*

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## CHAPTER 82

# OPERATING A MOTOR VEHICLE

### 82.01 Violation

### 82.02 Presumption

**82.01 VIOLATION.** A person whose driver's license or operating privilege has been denied, canceled, suspended, or revoked as provided in *Code of Iowa* Chapters 321 and 321A and *Code of Iowa* Sections 252J.8 or 901.5(10) and who operates a motor vehicle upon the streets or highways within the City commits a simple misdemeanor.

**82.02 PRESUMPTION.** It shall be presumed that a motor vehicle driven upon a parking lot which is within the City limits, or which is available to customers or invitees of a business or facility, was driven on the streets or highways of this City in order to enter the parking lot, and this section shall be applicable to such a motor vehicle. As used in this section, "parking lot" includes access roads, drives, lanes, aisles, entrances, and exits to and from a parking lot described in this section.

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## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.11 Tapping Mains
90.02 Superintendent's Duties	90.12 Installation of Water Service Pipe
90.03 Mandatory Connections	90.13 Responsibility for Water Service Pipe
90.04 Drilling of Wells	90.14 Failure to Maintain
90.05 Abandoned Connections	90.15 Curb Valve
90.06 Permit	90.16 Interior Valve
90.07 Fee for Permit and Connection Charge for New Main Taps	90.17 Inspection and Approval
90.08 Compliance with Plumbing Code	90.18 Completion by the City
90.09 Plumber Required	90.19 Shutting Off Water Supply
90.10 Excavations	90.20 Operation of Curb Valve and Hydrants

**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.

**90.04 DRILLING OF WELLS.** The City prohibits new water wells in the City limits. *See Section 93.06.*

**90.05 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 within 10 days of abandonment. If the line is not properly abandoned, the City will complete the work and charge the cost to the property owner.

**90.06 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.

**90.07 FEE FOR PERMIT AND CONNECTION CHARGE FOR NEW MAIN TAPS.** Before any permit is issued for tapping the main, the person who makes the application shall pay \$25.00 to the Clerk to cover the cost of issuing the permit and supervising and regulating the work, and a \$75.00 fee for inspecting the work. In addition there shall be a connection charge in the amount of \$500.00 paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

**90.08 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*.

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

**90.10 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.

**90.11 TAPPING MAINS.** All taps into water mains shall be made in accordance with the *State Plumbing Code*.

**90.12 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be Type K copper or Poly AWWAC901/ASTM D2239. 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.

**90.13 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.

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

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

**90.15 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 or above ground.

**90.16 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.

**90.17 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. No lines or connections may be covered prior to written approval by representative of Public Works Department. A violation may result in re-opening of excavation for inspection. All newly occupied properties are required to have a utility inspection by the Public Works Department when turning on service.

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

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

**90.19 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.

**90.20 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.

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## CHAPTER 91

### WATER METERS

91.01 Meters Required  
91.02 Meter Setting  
91.03 Location of Meters  
91.04 Meter Costs  
91.05 Outside Remote Reader  
91.06 Meter Testing  
91.07 Right of Entry  
91.08 Frozen Meters

91.09 Damage to Apparatus  
91.10 Check and Shut Off Valve Required  
91.11 Backflow Prevention  
91.12 Irrigation Meters  
91.13 Installation of Irrigation Meter  
91.14 Irrigation Service Restricted  
91.15 Rates for Irrigation Service  
91.16 Disconnection of Irrigation Meter

**91.01 METERS REQUIRED.** All water furnished customers shall be measured through meters purchased from the City and installed by a plumber currently licensed by the State of Iowa.

**91.02 METER SETTING.** On new construction the owner or contractor shall provide and install a one-half-inch conduit from the meter setting to the outside of the structure to allow a remote reader wire to be run or replaced. The conduit shall be run to either the front or side of the structure but under no circumstances shall the conduit be in a location which is inaccessible to the meter reader. The conduit shall end at the outside wall not less than 18 inches and no more than 30 inches above finished grade.

**91.03 LOCATION OF METERS.** All meters are to be set in an upright position, in a location that is freely accessible and will not be set in crawl spaces under houses. All water meters must have a valve installed in the pipes on both the inlet and outlet sides of the meter. Customers must take all necessary precautions to protect meters from damage due to freezing, hot water or other causes. Meters shall not be boxed in or otherwise blocked to prevent removal or maintenance of the meter.

**91.04 METER COSTS.** The full cost of any meter shall be paid to the City by the property owner or customer prior to the installation of any such meter. The property owner or customer shall be required to purchase and install such meter in accordance with requirements established by the City.

**91.05 OUTSIDE REMOTE READER.** An outside reader shall be installed on all new meter installations. The inside meter shall be the master meter. If any conflicts arise, the inside meter reading shall prevail.

**91.06 METER TESTING.** New meters are tested at the factory before installing. A \$25.00 fee will be charged for any meter that is removed and tested at the customer's request, if the meter is found to be within acceptable limits.

**91.07 RIGHT OF ENTRY.** The Superintendent or other employee of the City shall be permitted at all reasonable times to enter the premises or buildings to examine the water meter and fixtures. In case of fraudulent representation on the part of the owner, the owner shall forfeit any deposit and the Water Department may cause the water to be turned off and assess the damage to the premises served.

**91.08 FROZEN METERS.** The City will charge for replacement of frozen meters. Meters will be billed at replacement cost.

**91.09 DAMAGE TO APPARATUS.** Neither the City, nor the Water Department, shall be held responsible by reason of the breaking of any service pipe or apparatus, or for failure in the supply of water.

**91.10 CHECK AND SHUT OFF VALVE REQUIRED.** If water meters are placed on pipes connected to boilers or other hot water apparatus, an approved check valve and shut off valve must be placed between meter and such boiler or other hot water apparatus. A relief valve must be placed on hot water boiler or heater to protect such meter from back pressure of steam or hot water. The over temperature relief valve must comply with State Plumbing Codes.

**91.11 BACKFLOW PREVENTION.** The City shall require a backflow prevention device, or devices, to be installed on all meters, at the expense of the owner.

**91.12 IRRIGATION METERS.** An irrigation meter may also be installed, for use with single or multiple family residences, to measure water that is not disposed of through the public sanitary sewer system. The water measured by an irrigation meter may include water for swimming pools, watering yards, watering gardens, or other similar uses. The following regulations apply to irrigation meters:

1. Irrigation meters shall be installed not more than two feet from the prime meter and shall be installed parallel to the prime meter.
2. Upon filing a completed water service permit at City Hall the Water Superintendent shall review the request and make a determination that the separate line will not discharge into the sanitary sewer system of the City.
3. The irrigation meter setting must be made on the street side of the prime meter. The water lines must be separately valved and run directly to outside faucets.
4. Shut-off valves are required ahead of and after the irrigation meter and must be within one foot of the meter.
5. A backflow preventer (approved by the City) to protect against contamination of the water system must be installed after the irrigation meter.
6. The irrigation meter must be installed horizontal to the floor with the arrow of the meter being in the direction of the flow of water to the outside. No underground irrigation systems are allowed in the public right-of-way.

**91.13 INSTALLATION OF IRRIGATION METER.** Upon approval by the City of the irrigation meter permit, the City will allow the resident to hire a plumber to install the following water meter package or its equivalent at the customer's expense:

1. 5/8-inch water meter with readout.
2. Branch piece for the two meters.
3. Two angle yoke valves.
4. Two yoke bars.
5. Two expansion connections.

6. One straight check valve.
7. One straight yoke outlet.

Once installed, the irrigation meter shall be locked until the customer has completed the plumbing of the meter to the outside faucet. Upon completion, the plumbing must be inspected and approved by the City. The irrigation meter shall be sealed upon installation.

**91.14 IRRIGATION METER RESTRICTED.** In order to provide a fair and equitable program of irrigation meter service, the following restrictions shall apply:

1. During any period in which the City determines that it is necessary to conserve water, all irrigation meter services shall be disconnected immediately. Disconnection will be completed by the City. Reconnection shall occur only when the water conservation period is over, as determined by the City. In the event of mandatory disconnection during water conservation periods, the fees as provided for in Section 91.16 of this chapter shall be waived.
2. If at any time it is brought to the attention of the City that the customer is using the irrigation meter to provide water for use in the house, the irrigation meter shall be removed and the customer shall no longer be eligible for irrigation meter service.
3. Any sign of meter tampering by the customer shall result in the immediate termination of irrigation meter service.

**91.15 RATES FOR IRRIGATION SERVICE.** Water service through irrigation meters shall be billed at rates as established in Chapter 92 of this Code of Ordinances; however, no minimum charge shall be assessed during months where there is no usage. No sewer charge will be assessed to water usage through the irrigation meter.

**91.16 DISCONNECTION OF IRRIGATION METER.** If a customer requests disconnection of an irrigation meter, a \$50.00 disconnection fee shall be assessed. If a customer requests reconnection of an irrigation meter, a \$50.00 reconnection fee shall be assessed.

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## CHAPTER 92

### WATER RATES

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

92.07 Lien Exemption  
92.08 Lien Notice  
92.09 New Customer Connection Fee  
92.10 Requested Discontinuance Fee  
92.11 Vacant Property

**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.**

*(Code of Iowa, Sec. 384.84)*

1. Metered service is furnished at the rates:
  - A. The first 2,000 gallons used per month shall be \$31.19 per month (minimum bill).
  - B. Anything over 2,000 gallons used per month will be \$6.26 per 1,000 gallons.

Water rates shall be reviewed by the City Council in February of each year to ensure with the revenues are covering the cost of expenses.

*(Section 92.02 – Ord. 648 – Jun. 21 Supp.)*

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates 200 percent of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 364.4 & 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 first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within 15 days.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of 10 percent of the amount due shall be added to each delinquent bill.

4. Administrative Fee. Customers shall be allowed one extension on their utility bill due date per year without charge. All other due date extension requests shall be subject to a \$25.00 administration fee. If the customer fails to pay before the approved extension due date, water service shall be subject to disconnection. Administrative fees shall be charged on all accounts anytime service is turned back on after an interruption in service.

**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 City Clerk or Deputy 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 Clerk shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. If the Clerk finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Fees. If an account reaches disconnect procedures, an administrative charge of \$50.00 will be billed regardless as to whether service has been physically discontinued. A fee of \$150.00 shall be charged if service is requested outside of regular working hours (Monday through Friday, 7:00 a.m. to 3:30 p.m.) including weekends. A fee of \$300.00 shall be charged if service is requested on a holiday. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.84)*

**92.09 NEW CUSTOMER CONNECTION FEE.** Every customer shall pay a \$100.00 connection fee when establishing a new service account, transferring any account, or changing the name on an account (excluding deaths or marriages). Landlords shall pay a \$25.00 change of ownership/occupancy fee when a tenant vacates a property and the billing is redirected back into the landlord's name. Deposits collected prior to October 1, 2016 will be deposited into a

non-interest-bearing customer deposit account and held there until service is permanently discontinued. When a customer discontinues water service, all deposits paid into the account will be refunded if the account is current. Amounts due will be subtracted from the account before refunds are issued. Under no circumstances will deposits be used to pay past due open accounts; however, deposits may be used to pay an unpaid balance on a closed account when a resident moves out.

*(Code of Iowa, Sec. 384.84)*

**92.10 REQUESTED DISCONTINUANCE FEE.** There shall be a service fee collected for discontinuing and restoring water service for changes in occupancy, making repairs, or any other requested discontinuance in the amount of \$20.00 during normal working hours and \$40.00 after normal working hours.

**92.11 VACANT PROPERTY.** When a property becomes vacant, the property owner may:

1. Notify the Clerk of the vacancy and upon such notification the monthly water service rate for the vacant property shall be billed by meter usage.
2. Request that water service be temporarily discontinued and shut off at the curb valve. During the period when service is temporarily discontinued, there shall be no monthly water service charge billed to the vacant property. If conditions prohibit the curb valve from actually being shut off, upon payment of the \$20.00 fee, service shall be deemed discontinued for billing purposes.

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## CHAPTER 93

# WATER WELL PROTECTION

### 93.01 Purpose

### 93.02 Establishment of Separation Distances

### 93.03 Definitions

### 93.04 Separation Distances Table

### 93.05 Control of Water Supply

### 93.06 Regulation of Wells Within City Limits

**93.01 PURPOSE.** The purpose of this chapter is to establish separation distances from wells from all structures and uses, to protect the public, and to preserve the health and welfare of the community by protecting water purity.

**93.02 ESTABLISHMENT OF SEPARATION DISTANCES.** The distances for separating uses and construction around all wells within the City, including old wells as well as new wells, have been established by State requirements relative to possible pollutants and their distances from wells, and the Council has found that the said State requirements shall be adopted as the minimum acceptable requirements for separation distances from wells, and no construction or use shall be allowed within said minimum distances to City wells as set forth herein.

**93.03 DEFINITIONS.** For use in this chapter, the following terms are defined. Use of the word “building” includes the word “structure.”

1. “Animal enclosure” means a lot, yard, corral or similar structure in which the concentration of livestock or poultry is such that a vegetative cover is not maintained.
2. “Animal pasturage” means a fenced area where vegetative cover is maintained and in which the animals are enclosed.
3. “Animal waste” means animal waste consisting of excreta, leachings, feed losses, litter, wash water or other associated waste.
4. “Animal waste stockpiles” means stacking, composting or containment of animal wastes.
5. “Animal waste storage basin or lagoon” means fully or partially excavated or diked earthen structure including earthen side slopes or floor.
6. “Animal waste storage tank” means a completely fabricated structure, with or without a cover, either formed in place or transported to the site, used for containing animal waste.
7. “Cistern” means a covered tank in which rain water from roof drains is stored.
8. “Deep well” means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at a depth of at least 25 feet below the normal ground surface and above the aquifer from which the water is to be drawn.
9. “Low permeability” means an unconsolidated soil layer of well sorted fine grain-sized sediments that under normal hydrostatic pressures would not be significantly permeable. Low permeability soils may include homogeneous clays below the zone of weathering, mudstone, claystone, and some glacial till.
10. “Privy” means a structure used for the deposition of human body wastes.

11. "Sanitary sewer pipe" means a sewer pipe complying with the standards of sewer construction of the Department of Natural Resources.
12. "Septic tank" means a watertight tank which receives sewage.
13. "Shallow well" means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.
14. "Water main pipe" means a water main complying with the Table A, Separation Distances, Department of Natural Resources standards for water main construction.

**93.04 SEPARATION DISTANCES TABLE.** No building or use shall be allowed within the separation distances from City wells as set out in Table A, Separation Distances, at the end of this chapter. A building permit is required for all construction within 1,000 feet of municipal wells. No building permit shall be issued which is in violation of the separation distances from municipal wells if in violation of this chapter or a source of contamination for said well. Any use or construction in violation of this chapter is a nuisance as defined in Chapter 50 of this Code of Ordinances and prohibited pursuant to Section 50.04; and the notice requirements regarding abatement of nuisances and prohibited conditions and all provisions of this Code of Ordinances in regard to abatement, costs of collection, hearings and penalties for maintaining a nuisance or prohibited condition as set forth herein are applicable. Specifically, and in addition to any other remedies allowed by ordinance or at law, the City shall recover any costs for water treatment which are created by any source of contamination which is identified, where said source is in violation of this chapter.

**93.05 CONTROL OF WATER SUPPLY.** Whenever in the judgment of the Council it becomes necessary to conserve the water supply in the public interest, a resolution may be adopted to:

1. Regulate during certain hours or on certain days of the week the water that may be used for car and vehicle washing, watering lawns, gardens or other similar uses or prohibit the use of water for any such purposes for such times as the Council may determine;
2. Regulate the amount of water that any customer may use on any particular day or for any period of time and specify the purposes for which water may be used by any customer; or
3. Make additional rate changes for special uses by resolution or contract.

**93.06 REGULATION OF WELLS WITHIN CITY LIMITS.** No wells may be constructed or drilled within the City limits without a permit. Permit applications shall be obtained from and presented to the Superintendent of Water/Sewer. The Superintendent of Water/Sewer shall present all applications to the Council for consideration for slub grant or denial. The Superintendent of Water/Sewer shall make recommendations to the Council regarding the grant or denial of any application, but the final decision shall rest with the Council. In considering the grant or denial of any application for construction or drilling of a well within City limits, the Council shall consider whether the property is furnished with pure and wholesome water, whether it is safe to construct or drill a well on the premises, and any other considerations which the Council deems appropriate. The grant of any application for permit to drill or construct a well shall not affect requirements of any other ordinances, of the City. Violation of this section shall constitute a simple misdemeanor and shall be punishable as a

municipal infraction as set forth in the Code of Ordinances. In addition, the Superintendent of Water/Sewer may at any time revoke the permit for any violation of Chapter 93 or any other chapter of this Code of Ordinances and may require that the work be stopped.

**TABLE A: SEPARATION DISTANCES**

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
<b>WASTEWATER STRUCTURES:</b>		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers and Drains <sup>2</sup>		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes <sup>3</sup>	200	400
Other		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well <sup>1</sup>	Shallow Well <sup>1</sup>
<b>CHEMICALS:</b>		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
<b>ANIMALS:</b>		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
<b>Animal Wastes</b>		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
<b>MISCELLANEOUS:</b>		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites <sup>4</sup>	1,000	1,000

<sup>1</sup> Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

<sup>2</sup> The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

<sup>3</sup> Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

<sup>4</sup> 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.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

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

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

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (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 storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste 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)*

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

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

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

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

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

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

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

**95.05 SEWER CONNECTION REQUIRED.**

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

*(IAC, 567-69.1[3])*

1. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 30 days after date of official notice from the City to do so provided that said public sewer is located within 200 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.

2. All lines which are abandoned for any reason shall be the property owner's responsibility to cap and officially abandon after an inspection by the Sewer Superintendent.

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the

Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

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

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

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

## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit	96.05 Property Owner's Responsibility
96.02 Permit Fee and Connection Charge for New Main Taps	96.06 Abatement of Violations
96.03 Connection Requirements	96.07 Forced Main
96.04 Excavations	96.08 Separate Building Sewers

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE AND CONNECTION CHARGE FOR NEW MAIN TAPS.** Before any permit is issued, the person who makes the application shall pay \$25.00 to the Clerk to cover the cost of issuing the permit for a new main tap, supervising and regulating, and a \$75.00 fee for inspecting the work. In addition, there shall be a connection charge in the amount of \$500.00 paid before issuance of a permit to reimburse the City for costs borne by the City in making sewer service available to the property served.

**96.03 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and the installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *State Plumbing Code*. All such connections shall be made gastight and watertight. No lines or connections may be covered prior to written approval by a representative of the Public Works Department. A violation may result in the re-opening of excavation for inspection. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

**96.06 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way,

which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

**96.07 FORCED MAIN.** A forced main may be used if more than one resident connects. A co-op must be formed and agreed upon by the Council and a maintenance clause must be part of the co-op agreement.

**96.08 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.

## CHAPTER 97

### USE OF PUBLIC SEWERS

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

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

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers 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 the best interests of the sewer system.

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
  - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

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

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

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

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

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

## CHAPTER 98

### ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited  
98.02 When Required  
98.03 Compliance with Regulations  
98.04 Permit Required

98.05 Discharge Restrictions  
98.06 Maintenance of System  
98.07 Systems Abandoned  
98.08 Disposal of Septage

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

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

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

*(IAC, 567-69.1[3])*

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

*(IAC, 567-69.1[3 & 4])*

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

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

*(IAC, 567-69.1[3])*

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

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

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

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

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## CHAPTER 99

### SEWER SERVICE CHARGES

**99.01 Sewer Service Charges Required**  
**99.02 Private Water Systems**  
**99.03 Payment of Bills**

**99.04 Lien for Nonpayment**  
**99.05 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 in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Basic Service Charge. Non-metered sewer service charge of \$69.55 per month.
2. Metered Basic Service Charge. A monthly minimum service charge of \$28.90 for residential and commercial premises.
3. Usage Charge. \$6.85 per 1,000 gallons of water consumed each month shall apply.

In no case shall the minimum service charge be less than \$28.90 per month.

**99.02 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)*

**99.03 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.

**99.04 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)*

**99.05 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.09 Waste Storage Containers
105.04 Health and Fire Hazard	105.10 Prohibited Practices
105.05 Open Burning	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 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])*
3. “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.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.  
*(IAC, 567-100.2)*
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.  
*(IAC, 567-20.2[455B])*
6. “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])*
7. “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.

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

(IAC, 567-100.2)

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

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Ch. 657)*

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

**105.05 OPEN BURNING.**

1. Open Burning Restricted. No person, corporation, or other entity or association shall allow, cause, or permit open burning of any combustible material.
2. Burning Refuse. It is unlawful to burn refuse.
3. Exceptions. Notwithstanding Subsections 1 and 2 above, the following are allowed, provided that the Council, Jasper County Emergency Management, the State Fire Marshal, or any other regulatory agency has not declared a burn ban due to climatic conditions or a potential health hazard alert:
  - A. Cooking Fuels. The burning of common cooking fuels such as natural and/or LP gas, charcoal, or wood being used for the cooking of food for human consumption.
  - B. Commercial Incinerators (IDNR permit required).
  - C. School bonfires, or bonfires conducted by nonprofit organizations, provided that the applicant has obtained a permit from the City authorizing said bonfire.
  - D. Any open burning used solely for training purposes, provided that such burning shall only occur after a permit has been obtained from the Chief of the Fire Department specifying the following:
    - (1) The date and time of the proposed training.
    - (2) The location of the training.
    - (3) The name and address of a responsible party conducting the training.
    - (4) A brief description of the safety procedures to be implemented by the responsible party conducting the training session.
    - (5) A statement signed by the applicant specifically agreeing to hold the City harmless from any damages arising out of said burning and further agreement to indemnify the City therefrom.
  - E. Recreational Fires. Provided that the recreational fire is less than six feet in diameter and that flames do not exceed eight feet in height. The burning of seasoned wood, branches, or twigs shall be allowed for campfires and other fires used solely for recreational purposes which shall be contained in a fire ring or suitable fire pit. No burning shall be allowed on any street, sidewalk, alley, or public property.
  - F. The burning of common yard waste, generated solely from the property it is being burned on, between the dates of March 15 to May 15 and October 15

to December 15 during daylight hours. The City Council may at its discretion, by resolution, alter these dates in the event circumstances dictate the need to do so.

G. The Mayor may remove the burn ban for the purpose of disaster cleanup for a period of time necessary to complete the cleanup.

4. Penalties. A violation of this chapter shall be a municipal infraction. In the event the Fire Department is called to put out a fire, the homeowner may be charged a minimum of \$250.00.

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

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

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

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

*(IAC, 567-100.2)*

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

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

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

A. Residential. Residential waste and recycling containers will be provided by the hauler. Only containers provided by the hauler can be used. There is no specified weight limit for trash and recycling provided the contents fit within the provided 95-gallon containers and can be lifted by the trucks mechanical arm. Excessive amounts of concrete and other very heavy objects have been known to exceed the trucks lifting capacity. If the truck cannot pick up the container it will not be dumped, the homeowner will need to reduce the weight for next week. If additional trash pickup is needed, tags can be purchased for \$2.00 per bag at City Hall.

- B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises including multifamily of five or more units shall maintain metal bulk storage containers provided by the hauler.
2. Storage of Containers. 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.
  - A. Residential solid waste containers shall be stored upon the residential premises.
  - B. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at or near the curb or other designated place by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve hours in advance of the regularly scheduled collection day and shall be removed from the curb line within twelve hours following collection.

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by the City of Newton in Jasper County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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## CHAPTER 106

### COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection  
106.05 Bulky Rubbish

106.06 Right of Entry  
106.07 Contract Requirements  
106.08 Collection Fees  
106.09 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from single family and multifamily up to four-unit residential premises only. The owners or operators of 4 or more unit residential, commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises..

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

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

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week. Recycling will be picked up bi-weekly.

**106.05 BULKY RUBBISH.** Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**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)*

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:

A. Residential. Each occupied single-family residence or occupied dwelling unit of a multiple-family dwelling up to four units shall be charged per month for solid waste and recycling collection.

(1) October 1, 2020 - \$20.79

(2) April 1, 2021 - \$21.21

(3) April 1, 2022 - \$21.63

B. Commercial: Each multifamily dwelling of five or more units, commercial, industrial, and institutional will contract separately for garage and recycling hauling without any involvement of the City.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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

*(Code of Iowa, Sec. 384.84)*

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## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.08 Relocation Reimbursement
110.02 Rights and Privileges	110.09 Information
110.03 Pipes and Mains	110.10 Indemnification
110.04 Construction and Maintenance	110.11 Applicable Regulations
110.05 Excavations	110.12 Franchise Fee
110.06 Utility Easements	110.13 Management Fees
110.07 Relocation not Required	110.14 Termination

**110.01 FRANCHISE GRANTED.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation (hereinafter called “Company”) and to its successors and assigns the right and franchise to acquire, construct, erect, maintain, and operate in the City 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. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval, upon application by the Company. This franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.<sup>†</sup>

**110.02 RIGHTS AND PRIVILEGES.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

**110.03 PIPES AND MAINS.** Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing, or extending gas pipes, mains, conduits, and other facilities, provided that the same shall be so placed as not to unreasonably interfere with 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 non-motorized 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 vegetation removal must be completed by the City as part of the City’s

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 609, adopting a natural gas franchise for the City, was passed and adopted on August 8, 2016.

project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove vegetation or trees that are included in the City's portion of the project, the City shall either remove the vegetation trees at its cost or reimburse the Company for the expenses incurred to remove said trees or vegetation. 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 EXCAVATIONS.** 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 this Code of Ordinances 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.** 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 gas lines, mains or facilities, 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 in the previous 10 years.

**110.08 RELOCATION REIMBURSEMENT.** Pursuant to relocation of Company facilities as may be required here under, 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 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 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.

**110.10 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, 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.

**110.11 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. 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.

**110.12 FRANCHISE FEE.** A franchise fee of five 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.

**110.13 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.

**110.14 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.

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## CHAPTER 111

### ELECTRIC FRANCHISE

111.01 Franchise Granted	111.09 Indemnification
111.02 Rights and Privileges	111.10 Vegetation
111.03 Poles and Wires	111.11 Information
111.04 Construction and Maintenance	111.12 Applicable Regulations
111.05 Excavations	111.13 Franchise Fee
111.06 Utility Easements	111.14 Binding Agreement
111.07 Relocation not Required	111.15 Termination
111.08 Relocation Reimbursement	

**111.01 FRANCHISE GRANTED.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation (hereinafter called “Company”), and its successors and assigns, the right and nonexclusive franchise to acquire, construct, erect, maintain, and operate in 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 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 City Council approval. This franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.<sup>†</sup>

**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*.

**111.03 POLES AND WIRES.** 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 the franchise and this Code of Ordinances, 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

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 608, adopting an electric franchise for the City, was passed and adopted on August 8, 2016.

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 EXCAVATIONS.** 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. Company shall complete all repairs in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

**111.06 UTILITY EASEMENTS.** 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, 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 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 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 Z133.1-2012, 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 APPLICABLE REGULATIONS.** The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors 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 five 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 BINDING AGREEMENT.** This franchise shall apply to and bind the City and Company and their successors and assigns.

**111.15 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.

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## CHAPTER 112

# CABLE TELEVISION FRANCHISE

112.01 Definitions  
112.02 Grant of franchise  
112.03 Standards of Service  
112.04 Regulation by the City

112.05 Books and Records  
112.06 Insurance and Indemnification  
112.07 Enforcement and Termination of franchise  
112.08 Miscellaneous Provisions

**112.01 DEFINITIONS.** For the purpose of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below.

1. “Basic cable service” is the lowest priced tier of cable service that includes the retransmission of local broadcast television signals.
2. “Cable Act” means Title VI of the Cable Act of 1934, as amended.
3. “Cable services” means: (i) the one-way transmission to subscribers of video programming or other programming service; and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
4. “Cable system” means the Grantee’s facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the service area.
5. “FCC” means Federal Communications Commission or successor governmental entity thereto.
6. “Grantee” means MCC Iowa LLC, or the lawful successor, transferee, or assignee thereof.
7. “Gross revenues” means revenues derived from the operation of the cable system received by Grantee from subscribers for cable services in the service area; provided, however, gross revenues shall not include franchise fees, the FCC user fee or any tax, fee, or assessment of general applicability collected by the Grantee from subscribers for pass-through to a government agency.
8. “Public way” means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including (but not limited to) public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the City in the service area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the cable system.
9. “Service area” means the present boundaries of the City, and includes any additions thereto by annexation or other legal means, subject to the exceptions in Subsection 112.03(9).
10. “Standard installation” is defined as 125 feet from the nearest tap to the subscriber’s terminal.

11. "Subscriber" means a person who lawfully receives cable service of the cable system with the Grantee's express permission.

#### **112.02 GRANT OF FRANCHISE.**

1. Grant. The City hereby grants to the Grantee a nonexclusive franchise which authorizes the Grantee to construct and operate a cable system in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way such facilities and equipment as may be necessary or appurtenant to the cable system for the transmission and distribution of cable services, data services, information and other communications services or for any other lawful purposes.

2. Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this franchise. Neither party may unilaterally alter the material rights and obligations set forth in this franchise. In the event of a conflict between any ordinance and this franchise, the franchise shall control.

3. Other Authorizations. The City shall not permit any person to provide services similar to those provided by the Grantee in the service area without first having secured a non-exclusive franchise from the City. The City agrees that any grant of additional franchises or other authorizations including Open Video System authorizations by the City to provide services similar to those provided by the Grantee pursuant to this Agreement to any other entity shall cover the entire service area and shall not be on terms and conditions more favorable or less burdensome to the Grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of this franchise, the City, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchises or authorizations previously granted and find that the proposed increased obligations in the renewal, are not more burdensome and/or less favorable than those contained in any such additional franchises or authorizations.

#### **112.03 STANDARDS OF SERVICE.**

1. Conditions of Occupancy. The cable system installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

2. Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, Grantee shall replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

3. Relocation for the City. Upon its receipt of reasonable advance written notice, to be not less than 10 business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way, any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public

structures or improvements which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.

4. Relocation for a Third Party. The Grantee shall, on the request of any person holding a lawful permit issued by the City, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way as necessary any property of the Grantee, provided: (i) the expense of such is paid by said person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (ii) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than 30 business days in the event of a temporary relocation, and no less than 120 days for a permanent relocation.

5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the cable system.

6. Safety Requirements. Construction, operation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code.

7. Underground Construction. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its cable system underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

8. Access to Open Trenches. The City agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the City agrees to require as a condition of issuing a permit for open trenching to any utility or developer that: (i) the utility or developer give the Grantee at least 10 days' advance written notice of the availability of the open trench; and (ii) the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

9. Required Extensions of the Cable System. Grantee agrees to provide cable service to all residences in the service area subject to the density requirements specified in this subsection. Whenever the Grantee receives a request for cable service from a potential Subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least 10 residences within 1,320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its cable system to such subscribers at no cost to said subscribers for the cable system extension, other than the published standard/non-standard installation fees charged to all subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the cable system into any portion of the service area where another operator is providing cable service, into any annexed area which is not contiguous to the present service area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

10. Subscriber Charges for Extensions of the Cable System. No subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Subsection 9 above, the Grantee shall only be required to extend the

cable system to subscribers in that area if the subscribers are willing to share the capital costs of extending the cable system. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1,320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 10. Subscribers who request service hereunder shall bear the remaining cost to extend the cable system on a pro rata basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the cable system from the tap to the residence.

11. Cable Service to Public Buildings. The Grantee, upon request, shall provide without charge, a standard installation and one outlet of basic cable service to those administrative buildings owned and occupied by the City, fire stations, police stations, and K-12 public schools that are passed by its cable system. The cable service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The cable service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The City shall take reasonable precautions to prevent any inappropriate use of the Grantee's cable system or any loss or damage to Grantee's cable system. The City shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of cable service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-standard installation is required, unless the City or building owner/occupant agrees to pay the incremental cost of any necessary cable system extension and/or non-standard installation. If additional outlets of basic cable service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

12. Emergency Alert. Any Emergency Alert System ("EAS") provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the City will be only in accordance with the applicable state and local plans as approved in accordance with such FCC regulations. Except to the extent expressly prohibited by law, the City will hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including but not limited to reasonable attorneys' fees and costs.

13. Reimbursement of Costs. If funds are available to any person using the public way for the purpose of defraying the cost of any of the foregoing, the City shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the City shall make application for such funds on behalf of the Grantee.

#### **112.04 REGULATION BY THE CITY.**

1. Franchise Fee.

A. The Grantee shall pay to the City a franchise fee of three percent of annual gross revenues (as defined in Section 112.01 of this chapter). In accordance with the Cable Act, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due annually and payable within 90 days after the close of the preceding calendar year. Each payment shall be accompanied

by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. Limitation on Franchise Fee Actions. The period of limitation for recovery by the City of any franchise fee payable hereunder shall be three years from the date on which payment by the Grantee is due to the City.

2. Rates and Charges. The City may regulate rates for the provision of basic cable service and equipment as expressly permitted by federal law.

3. Renewal of Franchise.

A. The City and the Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Grantee's franchise shall be governed by and comply with the renewal provisions of federal law.

B. In addition to the procedures set forth in the Cable Act, the City agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current franchise term. The City further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal pursuant to the Cable Act and complete renewal of the franchise prior to expiration of its term.

C. Notwithstanding anything to the contrary set forth in this Subsection 3, the Grantee and the City agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment in accordance with the provisions of federal law the City and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current franchise and the City may grant a renewal thereof.

D. The Grantee and the City consider the terms set forth in this Subsection 3 to be consistent with the express renewal provisions of the Cable Act.

4. Conditions of Sale. If a renewal or extension of the Grantee's franchise is denied or the franchise is lawfully terminated, and the City either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act. The Grantee and the City agree that in the case of a final determination of a lawful revocation of the franchise, the Grantee shall be given at least 12 months to effectuate a transfer of its cable system to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the cable system during the 12-month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the City or the Grantee.

5. Transfer of Franchise. The Grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without prior written notice to the City. No such notice shall be required, however, for a transfer in

trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the franchise or cable system in order to secure indebtedness.

**112.05 BOOKS AND RECORDS.** The Grantee agrees that the City, upon 30 days' written notice to the Grantee and no more than once annually may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this franchise. Such notice shall specifically reference the subsection of the franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the City. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the City's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for franchise compliance purposes longer than three years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing cable service in the service area. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

**112.06 INSURANCE AND INDEMNIFICATION.**

1. Insurance Requirements. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the franchise. The City shall be designated as an additional insured and such insurance shall be non-cancellable except upon 30 days' prior written notice to the City. Upon written request, the Grantee shall provide a certificate of insurance showing evidence of the coverage required by this subsection.

2. Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its cable system in the service area provided that the City shall give the Grantee written notice of its obligation to indemnify the City within 10 days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the City for any damages, liability or claims resulting from the willful misconduct or negligence of the City.

**112.07 ENFORCEMENT AND TERMINATION OF FRANCHISE.**

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the any material term of the franchise, the City shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the City shall notify the Grantee in writing of the exact nature of such alleged noncompliance.

2. The Grantee's Right to Cure or Respond. The Grantee shall have 30 days from receipt of the notice described in Subsection 1: (i) to respond to the City, contesting the assertion of such noncompliance; or (ii) to cure such default; or (iii) in the event that, by the nature of such default, it cannot be cured within the 30-day period, initiate

reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in Subsection 1 pursuant to the procedures set forth in Subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to Subsection 2, if it intends to continue its investigation into the default, then the City shall schedule a public hearing. The City shall provide the Grantee at least 10 days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

4. Enforcement. Subject to applicable federal and State law, in the event the City, after the hearing set forth in Subsection 3, determines that the Grantee is in material default of any provision of the franchise, the City may:

A. Commence an action at law for monetary damages or seek other equitable relief; or

B. In the case of repeated or ongoing substantial noncompliance with a material term or terms of the franchise, seek to revoke the franchise in accordance with Subsection 5.

5. Revocation. Should the City seek to revoke the franchise after following the procedures set forth in Subsections 1-4 above, the City shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have 90 days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from the Grantee, it may then seek termination of the franchise at a public hearing. The City shall cause to be served upon the Grantee, at least 30 days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the franchise. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the City, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing. Following the hearing, the City shall determine whether or not the franchise shall be revoked. If the City determines that the franchise shall be revoked, the City shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the City to an appropriate court which shall have the power to review the decision of the City *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within 60 days of Grantee's receipt of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

6. Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's cable system is attached, as well as unavailability of materials and/or

qualified labor to perform the work necessary. Furthermore, the parties hereby agree that it is not the City's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the franchise for violations of the franchise where the violation was a good faith error that resulted in no or minimal negative impact on the subscribers within the service area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the City and/or subscribers.

#### **112.08 MISCELLANEOUS PROVISIONS.**

1. **Actions of Parties.** In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.
2. **Entire Agreement.** This franchise constitutes the entire agreement between the Grantee and the City and supersedes all other prior understandings and agreements oral or written. Any amendments to this franchise shall be mutually agreed to in writing by the parties.
3. **Reservation of Rights.** Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The City acknowledges that Grantee reserves all of its rights under applicable federal and State Constitutions and laws. If at any time during the term of this franchise, federal, State or local law permits any provider of video programming to provide services such as those provided pursuant to the franchise either without obtaining a franchise from the City or on terms or conditions more favorable than those applicable to the Grantee, then the franchise shall at the sole discretion of the Grantee: (i) cease to be in effect; or (ii) be deemed to expire at a date prior to the original expiration date selected by the Grantee; or (iii) will be automatically reformed to grant to the Grantee the more favorable terms, benefits and conditions available to the other provider.
4. **Notice.** Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: (i) upon receipt when hand delivered with receipt/acknowledgment, (ii) upon receipt when sent certified, registered mail, (iii) within five (5) business days after having been posted in the regular mail or (iv) on the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Colfax  
19 East Howard  
Colfax, IA 50054  
The address will change to 20 W. Howard in 2021

The notices or responses to the Grantee shall be addressed as follows:

MCC Iowa LLC  
Attn: Government Relations  
2195 Ingersoll Avenue

Des Moines, IA 50312-5289

With a copy to:  
MCC Iowa LLC  
Attn: Legal Department  
100 Crystal Run Road  
Middletown, NY 10941

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

5. Term and Effective Date. The effective date of the franchise is the date of final adoption by the City as set forth below subject to Grantee's acceptance by countersigning. The franchise shall be for a term of 15 years from such effective date.<sup>†</sup>

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 504, adopting a cable television franchise for the City, was passed and adopted on March 12, 2007.

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## CHAPTER 115

### CEMETERY

115.01 Definition	115.07 Sale of Interment Rights
115.02 Trusteeship	115.08 Perpetual Care Registry
115.03 Establishment of Trust Fund	115.09 Rules and Regulations
115.04 Cemetery Superintendent Appointed	115.10 Vandalism in Cemetery
115.05 Duties of Superintendent	115.11 Vault
115.06 Records	115.12 Hours

**115.01 DEFINITION.** The term “cemetery” means the Colfax Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

*(Code of Iowa, Sec. 523I.501)*

**115.02 TRUSTEESHIP.** Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

*(Code of Iowa, Sec. 523I.502)*

**115.03 ESTABLISHMENT OF TRUST FUND.** A perpetual trust is hereby established for the cemetery, in accordance with *Code of Iowa* Chapter 523I, the Iowa Cemetery Act. A restricted fund is created, to be known and designated as the Perpetual Care Cemetery Fund, which shall be funded by the deposit of an amount equal to or greater than 20 percent of the gross selling price, or \$50.00, whichever is more, for each sale of interment spaces within the cemetery. The fund shall be administered in accordance with the purposes and provisions of *Code of Iowa* Chapter 523I. The Perpetual Care Cemetery Fund shall be maintained separate from all operating funds of the cemetery and the principal of the fund shall not be reduced voluntarily except as specifically permitted by the Iowa Cemetery Act and applicable administrative regulations.

**115.04 CEMETERY SUPERINTENDENT APPOINTED.** The Clerk shall be the Cemetery Superintendent and shall operate the cemetery in accordance with applicable rules and regulations and under the direction of the Council.

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

**115.05 DUTIES OF SUPERINTENDENT.** The duties of the Cemetery Superintendent are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery.
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.

**115.06 RECORDS.** It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

*(Code of Iowa, Sec. 523I.311)*

1. Sales or Transfers of Interment Rights.
  - A. The name and last known address of each owner or previous owner of interment rights.
  - B. The date of each purchase or transfer of interment rights.
  - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
  - A. The date the remains are interred.
  - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
  - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

**115.07 SALE OF INTERMENT RIGHTS.** The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

*(Code of Iowa, Sec. 523I.310)*

**115.08 PERPETUAL CARE REGISTRY.** The cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of the Iowa Cemetery Act, including the amounts deposited in the Perpetual Care Cemetery Fund.

**115.09 RULES AND REGULATIONS.** Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

*(Code of Iowa, Sec. 523I.304)*

**115.10 VANDALISM IN CEMETERY.** Any person who destroys, injures, or defaces any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything

in or belonging to any cemetery under the jurisdiction of the City shall be liable for any and all damage, in addition to being subject to any other penalty imposed.

**115.11 VAULT.** The placement of a casket in the cemetery must be in a concrete or steel container.

**115.12 HOURS.** No person shall remain in or enter into the cemetery one-half hour after sunset until sunrise.

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## CHAPTER 116

# QUARRY SPRINGS PARK AND RECREATION MUNICIPAL ENTERPRISE

116.01 Establishment of City Enterprise and Purpose  
116.02 Campground Rates and Charges

116.03 Payment of Rates and Charges

**116.01 ESTABLISHMENT OF CITY ENTERPRISE AND PURPOSE.** The Quarry Springs Park and Recreational Facility Municipal Enterprise is hereby established and declared to be a City enterprise of the City pursuant to Section 384.24(2)(c) of the *Code of Iowa*. The purpose of this ordinance is to establish rates and charges to be imposed in connection with the enterprise.

**116.02 CAMPGROUND RATES AND CHARGES.** There is hereby established and imposed the following rates, charges and fees for use of the recreational vehicle (RV) campsites at Quarry Springs Park and Recreation:

Rate Sheet for RV @ QSP Campground	Voted on at Board Mtg 2-11-21	
2021 Season	Rate	
Daily	40	
Weekly	200	
Monthly	500	Off season only/limited number of stalls
Sanitary Dump Fee	12	Free for paying RV campers at RV @ QSP
Primitive camping – daily fees	10	
Cancellation Fee	8	Nonrefundable fee for each reservation cancelled.
Reservation Fee	5	Estimated fee for transaction, paid by camper
Change or Modify reservation fee	5	A nonrefundable fee of \$5 applies to each reservation which is changed.
*Cancellations 2 or more days prior to arrival date: A cancellation fee will apply and no forfeiture of camping fees. The cancellation fee will be deducted from the camping fees paid and any remaining camping fees will be refunded.		
*Cancellations 1 day prior to arrival date or day of reservation: A cancellation fee will apply and customer will forfeit all camping fees.		
*No Shows: If no attempt is made to cancel a reservation and a camper fails to arrive, no refund will be given unless extenuating circumstances are documented and approved by QSP staff.		
*If reservation is cancelled by QSP due to a natural disaster or if by some means the campsite is unusable, full refund will be issued to the person that made the original reservation.		
*No military, senior, disability or local discount.		

**116.03 PAYMENT OF RATES AND CHARGES.** The rates and charges herein established shall be paid as follows:

1. Cash at the time of arrival.
2. Credit card prior to arrival through Quarry Spring's website. A convenience fee will apply for credit card payments.

*(Ch. 116 – Ord. 646 – Mar. 21 Supp.)*

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## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122 and 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 and 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises 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 the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 a.m. on Sunday

and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a Class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.  
(Ord. 662 – Sep. 21 Supp.)

(Code of Iowa, Sec. 123.49[2b] and 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. 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])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[21])*

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class “C” beer permit only.

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

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

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

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

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

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

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## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

### **121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance 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 & 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

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## CHAPTER 122

# PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 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, established by resolution, shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license. The fees shall be established by resolution.

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 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 Colfax-Mingo Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year. *(Ord. 658 – Sep. 21 Supp.)*

*(Code of Iowa, Sec. 364.3[13])*

**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 in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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## CHAPTER 123

### HOUSE MOVERS

123.01 House Mover Defined  
123.02 Permit Required  
123.03 Application  
123.04 Bond Required  
123.05 Insurance Required  
123.06 Permit Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than 100 square feet are exempt from the provisions of this chapter.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, 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 \$10,000.00 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 in an amount set by resolution of 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 135

### STREET USE AND MAINTENANCE

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| 135.01 Removal of Warning Devices              | 135.08 Burning Prohibited                              |
| 135.02 Obstructing or Defacing                 | 135.09 Excavations                                     |
| 135.03 Placing Debris On                       | 135.10 Property Owner's Responsibility for Maintenance |
| 135.04 Playing In                              | 135.11 Failure to Maintain                             |
| 135.05 Traveling on Barricaded Street or Alley | 135.12 Dumping of Snow                                 |
| 135.06 Use for Business Purposes               | 135.13 Driveway Culverts                               |
| 135.07 Washing Vehicles                        |  |

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$25,000.00 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 \$25,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$250,000.00 per person; \$500,000.00 per accident.
  - B. Property Damage - \$250,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, 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.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner. The minimum charge will be \$1,500.00.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.
12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of \$25,000.00 to guarantee such compliance.

**135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.<sup>†</sup>

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

**135.11 FAILURE TO MAINTAIN.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be

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<sup>†</sup> **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** 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 48 hours after the end of a snowfall, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

**136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least five feet wide and four inches thick, and each section shall be no more than six feet in length. On subdivisions platted after March 1, 2020, the developer may choose to put sidewalk on one side of the street only provided that the path is six feet wide and is six inches thick with rebar. All sidewalks as a part of driveways must be six inches thick. If the developer chooses the one side of the street six inch path, it must be on the same side of the street as the on street parking.

- B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
- C. Driveway areas shall be not less than six inches in thickness.
- 6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
- 7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
- 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
- 9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
- 10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
- 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto,

or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate  
137.02 Planning and Zoning Commission  
137.03 Notice of Vacation Hearing

137.04 Findings Required  
137.05 Disposal of Vacated Streets or Alleys  
137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.  
*(Code of Iowa, Sec. 364.12[2a])*

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.  
*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.  
*(Code of Iowa, Sec. 364.7)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.  
*(Code of Iowa, Sec. 174.15[2] & 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
105	January 5, 1920		
126	May 6, 1935		
155	October 8, 1951		
159	May 3, 1954		
160	December 6, 1954		
161	December 6, 1954		
242	November 6, 1973		
243	January 2, 1974		
246	September 3, 1974		
251	September 2, 1975		
273	February 12, 1981		
295	July 13, 1982		
296	July 13, 1982		
297	July 13, 1982		
298	July 13, 1982		
300	July 13, 1982		
301	July 13, 1982		
302	July 13, 1982		
303	July 13, 1982		
305	February 8, 1983		
308	September 13, 1983		
322	August 4, 1987		
333	March 13, 1990		
335	July 10, 1990		
337	June 11, 1991		
351	October 19, 1992		
372	April 8, 1996		
377	April 7, 1997		
406	August 10, 1998		
410	October 12, 1998		
581	September 12, 2011		
606	September 14, 2015		
626	February 11, 2019		

## CHAPTER 138

### STREET GRADES

#### 138.01 Established Grades

#### 138.02 Record Maintained

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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
117	March 7, 1924		

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## CHAPTER 139

# NAMING OF STREETS

139.01 Naming New Streets  
139.02 Changing Name of Street  
139.03 Recording Street Names

139.04 Official Street Name Map  
139.05 Revision of Street Name Map

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Colfax, 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 140

### MAILBOXES

**140.01** Type of Mailbox  
**140.02** Location of Boxes

**140.03** Maintenance of Approaches  
**140.04** Nonconforming Existing Mailboxes

**140.01 TYPE OF MAILBOX.** All mailboxes placed upon the City streets and rights-of-way of the City shall be of a quonset type, number 1 sized box as approved by the U.S. Department of Postal Service regulations.

**140.02 LOCATION OF BOXES.** All mailboxes meeting the above specifications shall be set in clusters of at least two and not more than ten boxes per location. Boxes shall not be set closer than 25 feet to an intersection (said intersection shall be determined by measuring 25 feet from the middle of the intersecting street down the street the mailboxes are to be placed upon). Mailboxes shall not be placed closer than 10 feet from any alley or driveway approach. Mailboxes meeting the above specifications may be placed in the street right-of-way provided that the support thereof is at least two feet behind the curb or edge of the traveled way and no portion of the box or support shall extend into the traveled way. Said boxes shall not obstruct a paved sidewalk for pedestrians and where the roadway has a shoulder to be maintained, said box and support shall be placed so as to not interfere with the road maintenance or snow removal.

**140.03 MAINTENANCE OF APPROACHES.** All approaches to the mailboxes shall be maintained by the individual owners of the boxes at said approach and the City shall not be responsible for surfacing, grading or maintaining said approaches.

**140.04 NONCONFORMING EXISTING MAILBOXES.** All existing mailboxes in the City which at the time of the passage of the ordinance codified in this chapter will not be affected by this chapter and shall be allowed to remain in place. Any mailboxes installed after the effective date of such ordinance must meet the requirements and specifications of this chapter unless the residence is already on an established door-to-door delivery.

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## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Plan

### 150.04 Certificate of Occupancy

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two inches in width and three inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 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.

**150.04 CERTIFICATE OF OCCUPANCY.** The house numbers must be installed prior to the issuance of a certificate of occupancy.

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## CHAPTER 151

### TREES

#### 151.01 Definition

#### 151.02 Planting Restrictions

#### 151.03 Duty to Trim Trees

#### 151.04 Trimming Trees to Be Supervised

#### 151.05 Disease Control

#### 151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any street or parking, however street trees shall be planted in residential subdivisions platted after March 1, 2020 in accordance with Chapter 170.17.

**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, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub 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 & h])*

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## CHAPTER 152

# COMMUNICATIONS TOWER AND ANTENNA INSTALLATION CODE

152.01 Purpose and General Policy	152.11 Abandonment
152.02 Definitions	152.12 Termination
152.03 Local Regulation and Compliance with the Telecommunications Act of 1996	152.13 Home Rule
152.04 Lease Required	152.14 New Technologies
152.05 Fee Required	152.15 Liability for Damages
152.06 Limit on Term	152.16 Protocol for Complaints
152.07 Priorities and Placement Requirements	152.17 Privately Owned Tower
152.08 Application Process	152.18 Grain Elevators
152.09 Noise and Emission Standards	152.19 Tower Height
152.10 Placement of Facilities and Related Lease Fees	152.20 Temporary Buildings

**152.01 PURPOSE AND GENERAL POLICY.** The Council finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property, it is necessary for the City to establish uniform rules and policies. This chapter is to be interpreted in light of these findings for the benefit of the citizens of the City.

**152.02 DEFINITIONS.** As used in this chapter:

1. “Antenna” means a device, dish or array used to transmit or receive telecommunications signals.
2. “Communications tower” means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.
3. “Height” of a communications tower is the distance from the base of the tower to the top of the structure.
4. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

**152.03 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996.** The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communications towers and antennas.

1. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.
2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.

3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.
4. Revenues from site leases of City-owned-and-controlled land and structures shall reflect fair compensation for use of City property and administration of this chapter.

**152.04 LEASE REQUIRED.** No person or other entity shall use any public property without first obtaining a lease from the City.

**152.05 FEE REQUIRED.** No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

**152.06 LIMIT ON TERM.** No lease for the use of public property shall be granted for a term of more than 15 years.

**152.07 PRIORITIES AND PLACEMENT REQUIREMENTS.**

1. Priority. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:
  - A. All functions of the City.
  - B. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.
  - C. Other governmental agencies for uses which are not related to public safety.
  - D. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.
2. Placement on City-Owned Property. The placement of communications antennas or towers on City-owned property must comply with the following requirements:
  - A. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.
  - B. The antenna or tower will have no adverse impact on surrounding private property. Antennas or towers will be allowed in districts zoned as "TE" if a unipole is utilized. No antenna or tower will be allowed closer than 500 feet to any residence.
  - C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards.
  - D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.

- E. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.
  - F. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.
  - G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antenna or tower.
  - H. The user must obtain all necessary land use approval.
  - I. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate antenna sites requested.
3. Placement on Private Property. The placement of communications antennas or towers on private property must comply with the following requirements:
- A. The antenna or tower will be allowed on private property in districts zoned "TE" if a unipole structure is utilized.
  - B. The antenna or tower will have no adverse impact on surrounding private property.
  - C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to other property.
  - D. No antenna or tower will be located closer than 500 feet from any residence.
  - E. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.
  - F. The user must obtain all necessary land use approval.
  - G. All applicants will be required to utilize an existing antenna or tower before applying for a new location. The City requires collocation of antenna or existing towers unless an engineering study reflects that collocation is impossible due to interference or signals.

#### **152.08 APPLICATION PROCESS.**

1. Documents Accompanying Application. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the Zoning Administrator a completed application accompanied by a fee in an amount to be determined by City Council and the following documents, if applicable:
- A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
  - B. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.
  - C. A current map or update for an existing map on file showing locations of applicant's antennas, facilities, existing towers and proposed towers which are reflected in public records, serving any property within the City.

- D. A report from a registered structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision, standards.
  - E. Identification of the owners of all antennas and equipment to be located on the site.
  - F. Written authorization from the site owner for the application.
  - G. Evidence that a valid FCC license for the proposed activity has been issued.
  - H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
  - I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
  - J. Additional information, as required, to determine that all applicable zoning regulations are met.
  - K. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to: (i) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City; or (ii) camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.
2. Additional Requirements. Applicant must also show evidence that all of the following conditions which are applicable are met:
- A. Applicant must show that the proposed communications tower, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.
  - B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.
  - C. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
  - D. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant: (i) made diligent but unsuccessful efforts for a minimum of 40 days prior to the submission of the application to install or collocate the applicant's telecommunications facilities

on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site; or (ii) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

E. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.

F. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

G. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

H. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Clerk a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the City, in form approved by the City Attorney.

I. Land use regulations, visibility, fencing, screening, landscaping, parking access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower, except no antenna or tower shall be closer than 500 feet to any structure used as a residence. The following height conditions apply:

(1) Industrial ("TE" District) – Free-standing (unipole) tower with height not exceeding 200 feet is a permitted conditional use; height exceeding 200 feet requires special exception.

(2) Agricultural ("AG" District) – Free-standing (unipole) or guyed tower with height not exceeding 300 feet is a permitted conditional use; height exceeding 300 feet requires special exception.

J. A tower must be a minimum distance equal to one and one-half the height of the tower from any structure, historic property, or architecturally significant property, and must be set back from all lot line distances equal to the district setback requirements or 125 percent of the tower height, whichever is greater. This does not apply to any structure used in conjunction with the tower operation. See also, restriction regarding distance from residences in Section 152.07.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within 60 days after all application materials are received.

**152.09 NOISE AND EMISSION STANDARDS.** No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

**152.10 PLACEMENT OF FACILITIES AND RELATED LEASE FEES.** The placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met.

1. Water Tower or Reservoir Sites. The City's water towers represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, their protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met:

- A. The applicant must have written approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.
- B. There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.
- C. The presence of the facility will not increase the water tower maintenance cost to the City.
- D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower.

Fees assessed for placement of antennas on City water towers shall be negotiated and approved by the Council.

2. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the Park Board and approval of the Council.

- A. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.
- B. Commercial recreational areas and major ball fields.
- C. Park maintenance facilities.

Fees to be charged for the placement of antennas or towers in any City park shall be negotiated and approved by the Council.

**152.11 ABANDONMENT.** In the event the use of any communications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned.

Determination of the date of abandonment shall be made by the building official who shall have the right to request documentation and/or affidavits from the communications tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or (ii) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire. The land shall be left in as good as or better condition than before the tower occupancy.

**152.12 TERMINATION.** The Council may terminate any lease if it is determined that any one of the following conditions exist.

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.
2. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
3. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

**152.13 HOME RULE.** This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25<sup>th</sup> Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

**152.14 NEW TECHNOLOGIES.** Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

**152.15 LIABILITY FOR DAMAGES.** The applicant shall assume liability for any and all damages, claims, or suits that occur or may occur from the erection, location, or use of said antenna and/or tower, whether on City-owned property or private property, and shall hold the City harmless and indemnify the City for any damages incurred or judgments rendered as a result of the erection, operation, or location of said antenna and/or tower on City-owned property.

**152.16 PROTOCOL FOR COMPLAINTS.** Any complaints arising from the erection, location, or operation of an antenna and/or tower shall be first addressed to the company owning or leasing the antenna and/or tower. If the complaint is not adequately addressed, the complaint shall be addressed with the Council. If the complaint is still not adequately addressed, the

complaint will be referred to the FCC (Federal Communications Commission) or the appropriate department thereof.

**152.17 PRIVATELY OWNED TOWER.** Any tower meant to receive or transmit wireless signals for private use shall not exceed 45 feet from ground to top of tower.

**152.18 GRAIN ELEVATORS.** Grain elevators must be approved by Council before plans are submitted to the Planning and Zoning Commission.

**152.19 TOWER HEIGHT.** The height of any tower that is not a telecommunications tower will be determined by the Planning and Zoning Commission.

**152.20 TEMPORARY BUILDINGS.** Temporary buildings for the uses incidental to construction work may be allowed. Such buildings shall be removed upon the completion or abandonment of the construction work.

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## CHAPTER 153

### HERITAGE PRESERVATION COMMITTEE

153.01 Purpose	153.08 Building Size and Proportion Requirements
153.02 Heritage Preservation Committee	153.09 Mechanical and Electrical Requirements
153.03 Definitions	153.10 Signs
153.04 Establishment of Heritage Preservation Districts and Sites	153.11 Site, Streetscape, and Landscaping
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153.07 Color Requirements	153.14 Design Review and Certificate of Appropriateness

**153.01 PURPOSE.** The purpose of this chapter is to promote the educational, cultural, economic, and general welfare of the public through the recognition, enhancement, and perpetuation of sites and districts of historical and cultural significance; safeguard the City's historic, aesthetic, and cultural heritage by preserving sites and districts of historic and cultural significance; stabilize and improve property values; foster pride in the legacy of beauty and achievements of the past; protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided; strengthen the economy of the City; and promote the use of sites and districts of historic and cultural significance as places for the education, pleasure and welfare of the people of the City.

**153.02 HERITAGE PRESERVATION COMMITTEE.** A Heritage Preservation Committee is hereby established which shall consist of five members. The terms of office of the members of the Committee and the manner of the appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. A majority of the members of the Committee shall be persons representing the public at large and shall not be involved in the business of purchasing or selling of real estate. No more than two business owners within the district shall be members of the board. Members may be reappointed to the board at the end of their term by the City Council.

1. Proceedings. The Committee shall adopt all rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Committee Chairperson and at such other time as the Committee may determine.
2. Duties and Powers. The Committee may do the following:
  - A. Conduct studies for the identification and designation of historic sites or districts, proceed at its own initiative or upon a petition from any person, group, or association, and shall maintain records of all studies and inventories for public use.
  - B. Make a recommendation to Council to recommend to the State Historic Preservation Officer for the listing of a historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.
  - C. Investigate and recommend to the Council the adoption of ordinances designating historic districts.
  - D. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.

- E. Acquire, with approval of Council, by purchase, bequest, or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties.
- F. Preserve, restore, maintain, and operate historic properties, under the ownership or control of the Commission.
- G. Contract, with the approval of the Council, with the State or the federal government or other organizations.
- H. Cooperate with the federal, State, and local governments in the pursuance of the objectives of historic preservation.
- I. Provide information for the purpose of historic preservation to the Council.
- J. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.
- K. Review and recommend properties for tax abatement programs as they may apply to preservation or restoration efforts.
- L. Recommend to City Council, districts and sites to be designated as Historical Preservation Districts or Historical Preservation sites, and to recommend amendments to existing sites or districts;
- M. Recommend to City Council, changes to design standards set forth in this chapter;
- N. Review applications for Certificates of Appropriateness as provided in this chapter.

### **153.03 DEFINITIONS.**

1. "Alteration" or "Change" means any action to change, modify, reconstruction, or restoration, but not repair, of any exterior feature of an existing building or structure within the Heritage Preservation District.
2. "Applicant" means the party making the Application for a Certificate of Approval from the Heritage Preservation Committee.
3. "Application" means the written request by the applicant to the Heritage Preservation Committee for a Certificate of Approval.
4. "Certificate of appropriateness" means the document, evidencing the approval by the Heritage Preservation Committee of a proposal to make alterations or changes to existing buildings or structures, or build new construction, or demolish an existing building or structure.
5. "Committee" means the Heritage Preservation Committee.
6. "Contributing resources" means the resources establishing the architectural character of the area; resources may represent one architectural style or a broad range of architectural styles.
7. "Design guidelines" means regulations intended to preserve the historical and architectural character of the Heritage Preservation District.
8. "Exterior architectural features" means the architectural character and general composition of a resource, including, but not limited to, the kind of texture of the

building material and the type, design, and character of all windows, doors, light features, signs, fences, gates, alleys, retaining walls, and other appurtenant elements.

9. “Heritage Preservation District” means an area so designated by City Council which contains a significant portion of archaeological sites, buildings, structures, objects and/or other improvements which, considered as a whole, possesses integrity of location, design, setting, materials, workmanship, feeling, and association; and (i) embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or (ii) is associated with events that have made significant contributions to the broad patterns of our local, State or national history; or (iii) possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials, or combinations thereof, which is deemed to add significantly to the value and attractiveness of properties within such area; or (iv) is associated with the lives of persons significant in our past; or (v) has yielded, or may be likely to yield, information important in prehistory or history.

10. “Heritage Preservation Site” means an archaeological or historic site, object, structure or building which is so designated by City Council; and (i) is associated with events that have made a significant contribution to the broad patterns of our history; or (ii) is associated with the lives of persons significant in our past; or (iii) embodies the distinctive characteristics of a type, period, or method of construction, or that represents a work of a master, or that possess high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or (iv) has yielded, or may be likely to yield, information important in prehistory or history.

11. “New construction” means the erection of a new principal or accessory structure or building on a lot or property, or an addition of an existing structure or building.

12. “Removal” means the razing, wrecking or removal of a total building or structure in the Heritage Preservation District; the razing, wrecking or removal of part of a building or structure in the Heritage Preservation District resulting in a reduction in its mass, height, or volume; or the razing, wrecking or removal of an enclosed or open addition to a building or structure in the Heritage Preservation District.

13. “Repair” means any change that is not new construction, removal, or change or alteration. Furthermore, nothing in this definition shall be construed to prohibit or limit normal repairs or maintenance which does not involve alterations, changes, or removals to the exterior features of a building or structure.

**153.04 ESTABLISHMENT OF HERITAGE PRESERVATION DISTRICTS AND SITES.** Heritage Preservation Districts and Sites shall be as established and amended by City Council and identified on the Official Zoning Map which, together with all explanatory matters thereon, are hereby adopted by reference and declared to be part of this chapter.

**153.05 CERTIFICATE OF APPROPRIATENESS REQUIRED.** No construction, alteration, or change to any structure, building, or physical site within a Heritage Preservation District or designated as a Heritage Preservation Site shall commence until after a Certificate of Appropriateness has been approved and issued by the Heritage Preservation Committee. Any construction, alteration, or change to any structure, building, or physical site within a Heritage

Preservation District or designated as a Heritage Preservation Site shall conform to the design standards established by this Chapter, unless waived by the Heritage Preservation Committee.

**153.06 ARCHITECTURAL REQUIREMENTS.** Appropriate materials and combination of materials on a building façade have a substantial impact on the aesthetic quality, value, durability, and maintenance of a building. Material used for building façades shall be sympathetic to the adjacent context and enhance the overall character of the area. Material standards are intended to help meet these goals. Standards may be waived in part or whole for: (i) restoration on projects as deemed necessary by the Heritage Preservation Committee to preserve the valuable historical character or structural integrity of the building; or (ii) to accommodate a unique design of outstanding merit, which clearly enhances the aesthetic value of the surrounding buildings.

1. The following materials may be used in unlimited quantities on building façades: fired clay brick, natural stone, and terra cotta.
2. The following materials may be used in limited quantities on building façades:
  - A. Wood (Finish Stock, Dimension Lumber, Plywood, Solid Panels). Is not to be used as general siding materials unless it was part of the original structure. Wood may be used for architectural elements (i.e. pilaster, cornices, decorative raised panels, trim board, brackets, lintels, etc.).
  - B. Stucco, Plaster, EIFS. Includes any material similar in texture and perception, either synthetic or natural. These materials shall not be used as the only other finish material in addition to glass on a façade. The amount, proportion, and location, shall be carefully considered.
  - C. Concrete Block, Glazed Block, Ceramic Tile, Concrete Brick, Manufactured (Concrete) Stone. Concrete blocks may be used in combination with other materials such as fired clay brick or natural stone. Façades constructed of only concrete block, concrete brick, and concrete stone in addition to the window materials will require review. Glazed block or ceramic tile is to be used only as accent material.
  - D. Concrete and Precast Concrete. Includes site poured or performed concrete items. Use is limited to architectural elements such as window hoods, cornices, columns, capitals, etc. Also, poured concrete may be used to increase structural stability when necessary.
  - E. Metal Flashing and Architectural Elements. Use of metal shall be limited to metal flashing and other architectural metal-formed elements such as cornices, columns, and moldings. Metal slipcovers over historic facades and metal awnings are not appropriate.
  - F. Glazing and Glass Block. Glazing includes all window, doors, spandrel, and vision made of glass. Glazing and/or glass block shall comprise a minimum of 50 percent of the area of the storefront, but no more than 50 percent of upper stories. Window openings shall have similarities to surrounding buildings. Glazing requirements are exempt on building elevations that do not face main streets.
  - G. Awnings and Canopies. Natural or synthetic fabric material constructed over a framework for sun or moisture protection. Awnings and canopies are to be used only at window areas, except at the storefront level where extended use may be appropriate.

H. Aluminum, Metal, or Vinyl Siding and Preformed Panels. Synthetic materials can be used to imitate other traditional materials as a substitute in construction. Use shall not alter the appearance, proportions, and details of a historic building.

3. The following materials are prohibited from use where they may be visible to the public: porcelain or baked enamel, metal, metal panels, asphalt, or wood shingles or vinyl siding.
4. Metal slip covers over historic facades and metal awnings will not be allowed.

**153.07 COLOR REQUIREMENTS.** Historically appropriate color schemes will be used. The similarity or compatibility of the proposed color to the existing building and other buildings in the area shall be considered. Buildings in the Heritage Preservation District have generally neutral colors; however, a more noticeable secondary color can be incorporated in the design to help highlight the building's architectural features and are acceptable as accents to architectural features of the façade. Painting brick is generally discouraged.

**153.08 BUILDING SIZE AND PROPORTION REQUIREMENTS.**

1. Building height shall be comparable to adjacent structures. A one-story building would not be appropriate in a block of two or three story buildings.
2. Define a distinct cornice (top of building) by use of a minimum of one of the following elements: a horizontal projection or series of projections from the plane of the wall surface, a contrasting change in color, and a change in pattern or texture from the wall surface.
3. Establish a storefront comparable to adjacent structures.
4. The size and proportion of window and door openings of a building shall be similar to those on surrounding façades. The same principle shall be applied to the ratio of window area to solid wall for the façade as a whole.

**153.09 MECHANICAL AND ELECTRICAL REQUIREMENTS.** Locate all mechanical and electrical items, such as electrical conduit, piping, vents and ductwork out of public view. Any items that remain exposed will be painted to match existing materials or screened with an enclosure architecturally integrated with the building.

**153.10 SIGNS.**

1. Location and Size. While a sign must be clearly visible, it will not dominate the building façade, nor obscure its architectural details.
2. Pedestrian Scale. Structures and buildings within the Heritage Preservation District were built at pedestrian scale. Consequently, overly large signs or overly high signs are unnecessary.
3. Preservation of Character. Arches, glass transom panels, and decorative brickwork are some of the features, for example, that are found on structures and buildings within the Heritage Preservation District that preserve rather than obscure character.
4. Types of Signs.
  - A. Roof signs are generally not allowed.

B. Window signs, permanent or adhered window signage exceeding 50 percent of the glazing of the first 15 of vertical feet of wall area shall be subject to review.

C. Wall signs shall not exceed 10 percent of the total wall area, and in no case shall exceed 10 percent of the area of the first 15 vertical feet of the wall area. The length of all wall signs shall not exceed two-thirds of the building wall length.

D. Billboards are prohibited.

E. The use of exterior banner type signage shall be allowed on a temporary basis not to exceed 60 cumulative days within one year.

F. Signs painted directly onto a building are prohibited. Murals intended to serve an artistic and/or historic function rather than advertising function are not considered signs and are allowed. Mural advertising is not allowed.

G. Projecting Signs, Blade Signs. Appropriate blade signs are encouraged. Use only one blade sign per business per building. Exceptions may be considered during the review process. Blade signs may not project over public property more than half the distance from the building to the curb, and may not project into a public alley or public parking lot. A sign may not project over the street line. Blade signs must be a minimum of eight feet above the ground and must be no larger in size than one square foot for each linear foot of the side of the building to which the sign is attached, not to exceed 40 square feet per face. Corner projecting signs are those that are visible from two or more intersecting streets, and shall be allowed as long as they do not exceed 40 square feet per face.

H. Illumination. Illuminated signs shall be illuminated as to fit with the design of the building. An indirectly lit sign, with light that also highlights the building's or structure's features, may also be appropriate. Spot, track, overhang, or wall lamps are acceptable light sources. Avoid high intensity light sources, as they often produce excessive glare. No back lit signs are allowed.

#### **153.11 SITE, STREETScape, AND LANDSCAPING.**

1. Site. Maintain existing predominant building setback. Place parking areas so as not be the focal point of the building.
2. Screening. Trash storage, mechanical/electrical units, and general exterior storage shall be screened in most cases. Enclosures shall be compatible with the building.
3. Streetscape. Benches, bike racks, and other streetscape elements shall comply with the master streetscape plan.
4. Landscaping. Must comply with all adopted City codes and ordinances.

**153.12 REMOVAL.** A proposal to demolish or remove any structure or building within the Heritage Preservation District may be approved or rejected by the Heritage Preservation Committee after consideration of the following factors: (i) the historic, scenic, cultural, aesthetic, or architectural significance of the building or structure; (ii) the importance of the building or structure to the character of the Heritage Preservation District; (iii) the difficulty or impossibility of reproducing such a building or structure because of its design, texture, material,

detail, or unique location; (iv) whether the building or structure is one of the last remaining examples of its kind in the neighborhood or the City; (v) whether there are definite plans for reuse of the underlying property if the proposed removal is approved, and what the effect of those plans on the Heritage Preservation District would be; (vi) whether reasonable measures can be taken to save the building or structure; and (vii) whether the building or structure is capable or earning reasonable economic return on its value.

1. The following additional criteria may be considered by the Heritage Preservation Committee when considering an Application for removal: (i) the condition of the building or structure and its probable life expectancy; (ii) whether or not the proposed removal could potentially adversely affect other historic buildings or structures or the Heritage Preservation District as a whole; (iii) the reason for removal of the building or structure and whether or not reasonable alternatives exist; (iv) whether or not relocation of the structure would be a practical and preferable alternative to removal; (v) the public necessity of the proposed removal; and (vi) the public purpose or interest in the land or building or structure to be protected.

2. If the Heritage Preservation Committee approves a proposal to demolish or remove any structure or building, any subsequent new construction shall still be subject to the design review process of the Heritage Preservation Committee as hereafter provided in this chapter.

3. The Heritage Preservation Committee will only approve an Application for removal after all preferable alternatives have been exhausted. The property owner shall coordinate with the Colfax Historical Society to document the building or structure thoroughly with photographs and drawings. Once the building or structure has been removed, the empty lot must be maintained appropriately so that it is free of hazards and trash and that it is well-tended if it is to remain vacant for any length of time. Before removal, all attempts at salvaging materials shall be made.

**153.13 ABANDONMENT OR NEGLECT.** Any abandoned or neglected buildings or structures within the Heritage Preservation District shall be subject to all City codes and ordinances and the laws of the State of Iowa.

**153.14 DESIGN REVIEW AND CERTIFICATE OF APPROPRIATENESS.**

1. Applications for Certificates of Appropriateness must be completed and submitted to the Heritage Preservation Committee for design review before the initiation of any project.

2. Applications are available in PDF form on the Colfax Main Street website and the City of Colfax website or as hard copies from the Colfax Main Street office and Colfax City Hall.

3. Upon receipt of a submitted Application for Certificate of Appropriateness, the Heritage Preservation Committee will meet to review the application within two weeks of receiving the submission.

4. After review of the application, the Committee may either (i) deny the project in its entirety and require re-application; (ii) grant conditional approval which may require further production of explanation, documentation, or adjustments to project plans; or (iii) approve in its entirety.

5. Once the Heritage Preservation Committee determines the project's application conforms to the City code requirements of this chapter, the Heritage Preservation

Committee shall deliver copies of a Certificate of Appropriateness to the applicant, to Colfax Main Street, and to Colfax City Hall.

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## CHAPTER 155

### BUILDING CODES

155.01 Title  
155.02 Adoption of Building Codes  
155.03 Building Code  
155.04 Residential Code  
155.05 Mechanical Code  
155.06 Fuel Gas Code  
155.07 Plumbing Code

155.08 Electrical Code  
155.09 Fire Code  
155.10 Property Maintenance Code  
155.11 Energy Conservation Code  
155.12 Existing Building Code  
155.13 Swimming Pool and Spa Code

**155.01 TITLE.** This chapter shall be known as the Building Codes of the City of Colfax, Iowa, may be cited as such, and will be referred to herein as the “Colfax Building Code(s).”

**155.02 ADOPTION OF BUILDING CODES.** The following codes are hereby adopted as, and constitute, the Building Codes of the City of Colfax, Iowa, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City.

**155.03 BUILDING CODE.** The provisions of the *International Building Code, 2018 edition*, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the Colfax Building Code, hereinafter referred to as ‘this code’.”
2. **Section 101.4.1 Gas.** Delete “International” and insert in lieu thereof “Colfax” and add at the end of the section: “All references in this code to the *International Fuel Gas Code* shall be interpreted to refer to the Colfax Fuel Gas Code.”
3. **Section 101.4.2 Mechanical.** Delete “International” and insert in lieu thereof “Colfax” and add at the end of the section: “All references in this code to the *International Mechanical Code* shall be interpreted to refer to the Colfax Mechanical Gas Code.”
4. **Section 101.4.3 Plumbing.** Delete “International Plumbing Code” and insert in lieu thereof “*Colfax Plumbing Code*” and add at the end of the section: “All references in this code to the *International Plumbing Code* shall be interpreted to refer to the *Colfax Plumbing Code*.”
5. **Section 101.4.4 Property maintenance.** Delete “International” and insert in lieu thereof “Colfax” and add at the end of the section: “All references in this code to the *International Property Maintenance Code* shall be interpreted to refer to the *Colfax Property Maintenance Code*.”
6. **Section 101.4.5 Fire prevention.** Delete “International” and insert in lieu thereof “Colfax” and add at the end of the section: “All references in this code to the *International Fire Code* shall be interpreted to refer to the *Colfax Fire Code*.”
7. **Section 101.4.6 Energy.** Delete “International” and insert in lieu thereof “Colfax” and add at the end of the section: “All references in this code to the *International Energy*

*Conservation Code* shall be interpreted to refer to the *Colfax Energy Conservation Code*.”

8. **Section 101.4.7 Existing buildings.** Delete “International” and insert in lieu thereof “Colfax” and add at the end of the section: “All references in this code to the *International Existing Building Code* shall be interpreted to refer to the *Colfax Existing Building Code*.”

9. **Section 101.4 Referenced Codes.** Add Subsection 101.4.8: “**101.4.8 Electrical.** The provisions of the *Colfax Electrical Code* shall apply to the installation, alteration, repair, and replacement of electrical systems, including equipment, appliances, fixtures, fittings, and appurtenances. All references in this code to NFPA 70 shall be interpreted to refer to the *Colfax Electrical Code*.”

10. **Section 104.11 Alternative materials, design and methods of construction and equipment.** Add Subsection 104.11.3: “**104.11.3 Manufactured home installation.** The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes.”

11. **Section 105.2 Work exempt from permit. Building Item #1.** Delete “120” and insert in lieu thereof “200.”

12. **Section 105.2 Work exempt from permit. Building Item #2.** Delete existing text.

13. **Section 105.2 Work exempt from permit. Building Item #6.** Delete existing text and insert: “Sidewalks and driveways located entirely on private property, and not more than 30 inches above adjacent grade, and not over any basement or story below, and not part of an accessible route.”

14. **Section 107.1 General.** Delete “in two or more sets.”

15. **Section 107.3.1 Approval of construction documents.** Delete this section.

16. **Section 903.4.2 Alarms.** Delete existing text and insert: “An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.”

17. **Section 907.1. General.** Add Subsection 907.1.4: “**907.1.4 Fire alarm control panels (FACP).** Each building shall have no more than one fire alarm control panel. Installation of the fire alarm control panel shall not exceed six feet in height, measured from the floor to the top of the control panel. **Exception:** Suppression system releasing panels are not required to meet the height requirement or the limitation on the number of panels.”

18. **Section 1009.2 Continuity and components.** Add Item Number 11: “11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces.”

19. **Section 1010.1.6 Landings at doors.** Add Subsection 1010.1.6.1: “**1010.1.6.1 Landing frost protection.** Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection.”

20. **Section 1028.5 Access to a public way.** Add at the end of the section: “Components of exterior walking surfaces shall be hard-surfaced.”

21. **Section 1030.4 Window wells.** Add Subsection 1030.4.3: “**1030.4.3 Window well**

**drainage.** All window wells shall be provided with approved drainage.”

**22. Section 1301.1.1 Criteria.** Delete “International” and insert in lieu thereof “Colfax.”

**23. Section 1612.3 Establishment of flood hazard areas.** Insert: “City of Colfax, Iowa” and “as adopted in City of Colfax Code of Ordinances Chapter 160.”

**24. Section 1807.1.5 Concrete and masonry foundation walls.** Add Exception #2 and Table 1807.1.5: “2. Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table 1807.1.5.

**Table 1807.1.5**  
**Prescriptive Foundation Walls Supporting Light-Frame Construction<sup>a,b,c</sup>**

Height of foundation wall <sup>d</sup>		Thickness of foundation wall		Reinforcement size and placement in concrete wall		Reinforcement size and placement in masonry wall <sup>j,k</sup>
Gross	Net <sup>e</sup>	Concrete <sup>f</sup>	Masonry <sup>g</sup>	Horizontal	Vertical	
≤8’	≤7’-8”	7.5”	8”	No. 4 bar within 12” of the top and bottom of the wall and at mid-height	No. 4 bar at 72” o.c. maximum	0.075 square inch bar at 96” o.c. vertically in cells fully grouted with Type M or S grout
>8’	>7’-8”	8”	Refer to R404.1.2	No. 4 bar at 24” o.c. maximum <sup>h</sup>	No. 4 bar at 20” o.c. maximum <sup>i</sup>	Refer to 1807.1.6

- Concrete floor slab to be nominal 4” thick. If such floor slab is not provided prior to backfill, one 36” vertical No. 4 bar shall be embedded in the footing at maximum 84” o.c. spacing or a full depth nominal 2” depth x 4” width keyway shall be installed in the footing.
- All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be 3” from the inside face of the wall and meet the provisions of Chapters 18, 19, and 21 of the *International Building Code*.
- Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the *International Building Code*. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.
- Maximum foundation wall height is 10’ gross and 9’-8” net.
- Net foundation wall height measured from top of basement slab to top of foundation wall.
- The thickness of concrete foundation walls supporting 3 floors shall be increased 2”.
- The thickness of masonry foundation walls supporting 3 floors shall be increased 4”.
- No. 5 bar at 24” o.c. maximum is an approved alternative.
- No. 5 bar at 30” o.c. maximum is an approved alternative.
- Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.
- If masonry block is 12” nominal thickness, wall may be unreinforced.”

**25. Section 1809.5 Frost protection, Exception 2.** Delete “600” and insert in lieu thereof “1,000.”

**26. Section 1809.7 Prescriptive footings for light-frame construction.** Delete existing Table 1809.7 and all footnotes and insert:

**“Table 1809.7**  
**Prescriptive Footings Supporting Walls of Light-Frame Construction<sup>a,b,c,d,e,f</sup>**

<b>Number of floors supported by the footing<sup>g</sup></b>	<b>Thickness of foundation walls (inches), concrete</b>	<b>Thickness of foundation walls (inches), concrete block</b>	<b>Width of footing (inches)</b>	<b>Thickness of footing (inches)</b>
1	8	8	16	8
2	8	8	16	8
3	10	12	18	12

- a. Depth of perimeter footings shall be at least 42” below final grade.
- b. The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.
- c. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
- d. Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
- e. Foundation walls shall have a minimum of #4 reinforcement bars 18” on center in each direction.
- f. Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
- g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.”

27. **Section 2902.6 Small Occupancies.** Add at the end of the section: “Water dispensers in accessible locations and within accessible reach ranges may be substituted for the required drinking fountain in business occupancies determined to require only one drinking fountain by occupant load.”

28. **Section 3109.1 General.** Delete “International” and insert in lieu thereof “Colfax.”

**155.04 RESIDENTIAL CODE.** The provisions of the *International Residential Code for One-and Two-Family Dwellings, 2018 edition*, as published by the International Code Council, except for Part VII—Plumbing, and Part VIII—Electrical; and with the addition of Appendix Chapters G, H, and J, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions:

1. **Section R101.1 Title.** Delete existing text and insert: “These regulations shall be known as the Colfax Residential Code, hereinafter referred to as ‘this code’.”
2. **Section 104.11 Alternative materials, design and methods of construction and equipment.** Add Subsection 104.11.2: “**104.11.2 Manufactured home installation.** The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes.”
3. **Section R105.2 Work exempt from permit. Building Item #2.** Delete existing text.
4. **Section R105.2 Work exempt from permit. Building Item #5.** Delete existing text and insert: “Sidewalks and driveways located entirely on private property.
5. **Section R106.1 Submittal documents.** Delete “in two or more sets.”
6. **Section R106.3.1 Approval of construction documents.** Delete this section.

7. **Table R301.2(1) Climatic and Geographic Design Criteria.** Amend Table 301.2(1) to include the following values:

Ground Snow Load:	25 PSF
Wind Speed (mph):	115
Topographic effects:	NO
Special wind region:	NO
Wind-borne debris zone:	NO
Seismic Design Category:	A
Weathering:	Severe
Frost line depth:	42"
Termite:	Moderate to Heavy
Winter Design Temp:	-5°F
Ice Barrier Underlayment Required:	YES
Flood Hazards:	As adopted in City of Colfax Code of Ordinances Chapter 160
Air Freezing Index:	1704
Mean Annual Temp:	49.7°F
Elevation:	953 ft
Latitude:	41°N
Winter heating:	-5°F
Summer cooling:	91°F
Altitude correction factor:	0.97
Indoor design temperature:	70°F
Design temperature cooling:	75°F
Heating temperature difference:	75°F
Cooling temperature difference:	16°F
Wind velocity heating:	15 MPH
Wind velocity cooling:	7.5 MPH
Coincident wet bulb:	74°F
Daily range:	M
Winter humidity:	30%
Summer humidity:	50%

8. **Section R303.3 Bathrooms.** Delete existing text and insert: Bathrooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 CFM for intermittent ventilation or 20 CFM for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside of the dwelling.

9. **Section R310.2.4 Emergency escape and rescue openings under decks and porches.** Add at the end of the section: "All cantilevered construction elements shall be regulated in accordance with this section."

10. **Section R311.3.2 Floor elevations for other exterior doors, Exception.** Delete "two" and insert in lieu thereof "three."

11. **Section R313.1 Townhouse automatic fire sprinkler systems.** Add Exception #2: "2. Townhouse structures that contain eight or fewer dwelling units and in which the gross finished and unfinished floor area on all levels, including basements and exclusive of attached garages, is less than 18,000 square feet."

12. **Section R313.2 One- and two-family dwellings automatic fire systems.** Add

Exception #2: “2. Dwellings that do not exceed 8,000 square feet or more of enclosed floor space on all levels, including basements and exclusive of attached garages.”

13. **Section R326.1 General.** Delete “International” and insert in lieu thereof “Colfax.”

14. **Section R403.1.1.1 Conventional light-frame wood construction.** Add Subsection R403.1.1.1 and Table R403.1.1.1: “**R403.1.1.1 Conventional light-frame wood construction.** Footings supporting concrete foundations and buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R403.1.1.1.

**Table R403.1.1.1**  
**Prescriptive Footings Supporting Walls of Light-Frame Construction<sup>a,b,c,d,e,f</sup>**

Number of floors supported by the footing <sup>g</sup>	Width of footing (inches)	Thickness of footing (inches)
1	16	8
2	16	8
3	18	12

- Minimum 2,000 psf soil bearing pressure. Soil bearing pressures less than 2,000 psf shall use Tables R403.1(1) through R403.1(3) and Figure R403.1(1) or R403.1.3, as applicable.
- Depth of perimeter footings shall be at least 42” below final grade.
- The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.
- Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
- Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
- Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
- Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.”

15. **Section R403.1.4.1 Frost protection, Exception #1.** Delete “600” and insert in lieu thereof “1,000.”

16. **Section R404.1.3.2.3 Foundation walls for conventional light-frame wood construction.** Add Subsection R404.1.3.2.3 and Table R404.1.3.2.3: “**R404.1.3.2.3 Foundation walls for conventional light-frame wood construction.** Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R404.1.3.2.3.

**Table R404.1.3.2.3**  
**Prescriptive Foundation Walls Supporting Light-Frame Construction<sup>a,b,c</sup>**

Height of foundation wall <sup>d</sup>		Thickness of foundation wall		Reinforcement size and placement in concrete wall		Reinforcement size and placement in masonry wall <sup>j,k</sup>
Gross	Net <sup>e</sup>	Concrete <sup>f</sup>	Masonry <sup>g</sup>	Horizontal	Vertical	
≤8'	≤7'-8"	7.5"	8"	No. 4 bar within 12" of the top and bottom of the wall and at mid-height	No. 4 bar at 72" o.c. maximum	0.075 square inch bar at 96" o.c. vertically in cells fully grouted with Type M or S grout
>8'	>7'-8"	8"	Refer to R404.1.2	No. 4 bar at 24" o.c. maximum <sup>h</sup>	No. 4 bar at 20" o.c. maximum <sup>i</sup>	Refer to R404.1.2

- a. Concrete floor slab to be nominal 4" thick. If such floor slab is not provided prior to

- backfill, one 36" vertical No. 4 bar shall be embedded in the footing at maximum 84" o.c. spacing or a full depth nominal 2" depth x 4" width keyway shall be installed in the footing.
- b. All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be 3" from the inside face of the wall and meet the provisions of Chapters 18, 19, and 21 of the *International Building Code*.
  - c. Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the *International Building Code*. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.
  - d. Maximum foundation wall height is 10' gross and 9'-8" net.
  - e. Net foundation wall height measured from top of basement slab to top of foundation wall.
  - f. The thickness of concrete foundation walls supporting 3 floors shall be increased 2."
  - g. The thickness of masonry foundation walls supporting 3 floors shall be increased 4."
  - h. No. 5 bar at 24" o.c. maximum is an approved alternative.
  - i. No. 5 bar at 30" o.c. maximum is an approved alternative.
  - j. Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.
  - k. If masonry block is 12" nominal thickness, wall may be unreinforced."

17. **Chapter 11 Energy Efficiency.** Delete all sections except N1101.1.

18. **Section N1101.1.1 Criteria.** Add Subsection N1101.1.1: "**N1101.1.1 Criteria.** Buildings regulated by this code shall be designed and constructed in accordance with the Colfax Energy Conservation Code."

**155.05 MECHANICAL CODE.** The provisions of the State of Iowa Administrative Rule 641—Chapter 61 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Colfax Mechanical Code*. References to section numbers will be to sections in the *International Mechanical Code*.

- 1. **Section 106.3.1 Construction documents.** Delete "in two or more sets."
- 2. **Section 106.4.1 Approved construction documents.** Delete this section.
- 3. **Section 106.4.6 Retention of construction documents.** Delete the final sentence of this section.
- 4. **Section 106.5.2 Fee schedule.** Delete existing text and insert: "A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the building official."
- 5. **Section 106.5.3 Fee refunds.** Delete existing text and insert: "The building official is authorized to establish a refund policy."
- 6. **Section 108.4 Violation penalties.** Delete existing text and insert: "Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the building official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law."
- 7. **Section 108.5 Stop work orders.** Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

**155.06 FUEL GAS CODE.** The provisions of the *International Fuel Gas Code, 2018 edition*, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the *Colfax Fuel Gas Code*, hereinafter referred to as ‘this code’.”
2. **Section 106.3.1 Construction documents.** Delete “in two or more sets.”
3. **Section 106.5.1 Approved construction documents.** Delete this section.
4. **Section 106.5.6 Retention of construction documents.** Delete the final sentence of this section.
5. **Section 106.6.2 Fee schedule.** Delete existing text and insert: “A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the building official.”
6. **Section 106.6.3 Fee refunds.** Delete existing text and insert: “The building official is authorized to establish a refund policy.”
7. **Section 108.4 Violation penalties.** Delete existing text and insert: “Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the building official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.”
8. **Section 108.5 Stop work orders.** Delete the final sentence of this section and insert in lieu thereof: “Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”

**155.07 PLUMBING CODE.** The provisions of the State of Iowa Administrative Rule 641—Chapter 25 with the addition of Chapter 1, except Sections 101 and 102, Appendix A, Appendix B, Appendix C, and Appendix D of the *Uniform Plumbing Code, 2018 edition*, as published by the International Association of Plumbing and Mechanical Officials, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Colfax Plumbing Code*. References to code sections will be to sections of the Uniform Plumbing Code.

1. **Section 104.4.1 Approved Plans or Construction Documents.** Delete this section.
2. **Section 104.4.6 Retention of Plans.** Delete the final sentence of this section.
3. **Section 104.5 Fees.** Delete “and as set forth in the fee schedule, Table 104.5.”
4. **Section 104.5.3 Fee Refunds.** Delete existing text and insert: “The Authority Having Jurisdiction is authorized to establish a refund policy.”
5. **Section 105.2.6 Reinspections.** Delete “To obtain reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table 104.5.”

**155.08 ELECTRICAL CODE.** The provisions of the State of Iowa Administrative Rule 661—Chapter 504 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Colfax Electrical Code:

1. **Reserved.**

**155.09 FIRE CODE.** The provisions of the *International Fire Code, 2018 edition*, as published by the International Code Council, with the addition of Appendix Chapters B, C, D, and I are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the Colfax Fire Code, hereinafter referred to as ‘this code’.”

2. **Section 105.1.2 Types of permits.** Add at the end of the section: “A certificate of occupancy issued pursuant to the provisions of the *International Building Code* may be considered as equivalent to an operational permit. Building, mechanical, electrical, and plumbing permits issued pursuant to the provisions of their respective codes may be considered as equivalent to a construction permit.

3. **Section 105.4.1 Submittals.** Delete “in two or more sets.”

4. **Section 105.4.6 Retention of construction documents.** Delete the final sentence of this section.

5. **Section 110.4 Violation penalties.** Delete existing text and insert: “Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be subject to penalties as prescribed by law.”

6. **Section 112.4 Failure to comply.** Delete existing text and insert: “Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”

7. **Section 308.1.4 Open-flame cooking devices, Exception 2.** Delete existing text and insert: “LP-gas cooking devices having LP-gas container with a water capacity not greater than 20 pounds.”

8. **Section 308.1.4 Open-flame cooking devices, Exception 3.** Delete this exception.

9. **Section 903.4.2 Alarms.** Delete existing text and insert: “An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.”

10. **Section 907.1. General.** Add Subsection 907.1.4: “**907.1.4 Fire alarm control panels (FACP).** Each building shall have no more than one fire alarm control panel. Installation of the fire alarm control panel shall not exceed six feet in height, measured from the floor to the top of the control panel. **Exception:** Suppression system releasing panels are not required to meet the height requirement or the limitation on the number of panels.”

11. **Section 1009.2 Continuity and components.** Add Item Number 11: “11.

Concrete, asphalt, or other approved hard-surface exterior walking surfaces.”

**12. Section 1010.1.6 Landings at doors.** Add Subsection 1010.1.6.1: “**1010.1.6.1 Landing frost protection.** Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection.”

**13. Section 1028.5 Access to a public way.** Add at the end of the section: “Components of exterior walking surfaces shall be hard-surfaced.”

**14. Section 1030.4 Window wells.** Add Subsection 1030.4.3: “**1030.4.3 Window well drainage.** All window wells shall be provided with approved drainage.”

**15. Section 5704.2.9.6.1 Locations where above-ground tanks are prohibited.** Delete existing text and insert in lieu thereof: “Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits of the CN, RS, RM, MH, AC, and BC zoning districts established by City of Colfax Code of Ordinances Chapter 165.”

**16. Section 5706.2.4.4 Locations where above-ground tanks are prohibited.** Delete existing text and insert in lieu thereof: “Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits of the CN, RS, RM, MH, AC, and BC zoning districts established by City of Colfax Code of Ordinances Chapter 165.”

**17. Section 5806.2 Limitations.** Delete existing text and insert in lieu thereof: “Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits of the CN, RS, RM, MH, AC, and BC zoning districts established by City of Colfax Code of Ordinances Chapter 165.”

**18. Section 6104.2 Maximum capacity within established limits.** Delete existing text and insert in lieu thereof: “The aggregate capacity of any one installation of liquefied petroleum gas storage shall not exceed a water capacity of 2,000 gallons within the limits of the CN, RS, RM, MH, AC, and BC zoning districts established by City of Colfax Code of Ordinances Chapter 165.”

**155.10 PROPERTY MAINTENANCE CODE.** The provisions of the *International Property Maintenance Code, 2018 edition*, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

**1. Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the *Colfax Property Maintenance Code*, hereinafter referred to as ‘this code’.”

**2. Section 102.3 Application of other codes.** Delete existing text and insert: “Repairs, additions, or alterations to a structure, or change of occupancy, shall be done in accordance with the procedures and provisions, as applicable, of the *Colfax Building Code, Colfax Energy Conservation Code, Colfax Existing Building Code, Colfax Fire Code, Colfax Fuel Gas Code, Colfax Electrical Code, Colfax Mechanical Code, Colfax Residential Code, and Colfax Plumbing Code*.”

**3. Section 103.5 Fees.** Delete “as indicated in the following schedule” and insert in lieu thereof “in accordance with the schedule as established by the code official.”

**4. Section 112.4 Failure to comply.** Delete existing text and insert: “Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”

**5. Section 302.4 Weeds.** Insert: “8 inches.”

6. **Section 304.14 Insect Screens.** Insert: “April 1” and “October 31.”
7. **Section 404.4.1 Room area.** Delete “one person” and insert in lieu thereof “two persons.”
8. **Section 602.3 Heat supply.** Insert: “October 1” and “April 30.”
9. **Section 602.4 Occupiable work spaces.** Insert: “October 1” and “April 30.”

**155.11 ENERGY CONSERVATION CODE.** The provisions of the *International Energy Conservation Code* as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in the *Colfax Building Code* and these regulations shall be known as the *Colfax Energy Conservation Code*. Construction or work for which a permit is required shall be subject to 3rd party inspections. The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. Any portion that does not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

**155.12 EXISTING BUILDING CODE.** The provisions of the *International Existing Building Code, 2018 Edition*, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the Colfax Existing Building Code.
2. **Section 106.1 General.** Delete “in two or more sets.”
3. **Section 106.3.1 Approval of construction documents.** Delete this section.

**155.13 SWIMMING POOL AND SPA CODE.** The provisions of the *International Swimming Pool and Spa Code, 2018 Edition*, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. **Section 101.1 Title.** Delete existing text and insert: “These regulations shall be known as the *Colfax Swimming Pool and Spa Code*, hereinafter known as “this code.”
2. **Section 105.3 Construction documents.** Delete “in two or more sets.”
3. **Section 105.5.6 Retention of construction documents.** Delete the final sentence of this section.
4. **Section 105.6.2 Fee schedule.** Delete existing text and insert: “A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the building official.”
5. **Section 105.6.3 Fee refunds.** Delete existing text and insert: “The building official is authorized to establish a refund policy.”
6. **Section 107.4 Violation penalties.** Delete existing text and insert: “Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.”
7. **Section 107.5 Stop work order.** Delete the final sentence of this section and insert in lieu thereof: “Any person who shall continue any work regulated by this code after

having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”

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## CHAPTER 159

# MINIMUM HOUSING CODE

159.01 Purpose	159.09 Permit Suspended; Appeal
159.02 Scope	159.10 Inspections
159.03 Title	159.11 Notice of Violation
159.04 Definitions	159.12 Housing Appeals Board
159.05 Permit Required	159.13 Housing Quality Standards
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**159.01 PURPOSE.** It is hereby declared that the purpose of this chapter is to protect, preserve, and promote the physical health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and publicly owned rental dwellings for the purpose of maintaining adequate sanitation and public health and to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all rental dwellings now in existence or hereafter constructed.

**159.02 SCOPE.** The provisions of this chapter shall apply uniformly to the construction, maintenance, use, and occupancy of all residential buildings and structures, where applicable, and shall apply uniformly to the alteration, repair, equipment, use, occupancy, and maintenance of all existing residential buildings within the jurisdiction of the City, irrespective of the date of construction. The provisions of this chapter do not apply to buildings and structures licensed and inspected by the State for a particular use or uses in which residential living is an incident to such use; provided, however, if such building or structure or a portion thereof is used for a part of the day or night for purposes which would otherwise make it subject to this chapter, then and to that extent the provisions of this chapter shall apply. Whenever any portion of a building or structure is subject to this chapter, then all dwelling units and rooming units, including any occupied by the owner or authorized agent, are subject to the provisions of this chapter.

**159.03 TITLE.** This chapter shall be known and may be cited as the Minimum Housing Code of the City, hereinafter referred to as “the Housing Code.”

**159.04 DEFINITIONS.** Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” or “premises” are used by this chapter, they shall be construed as though they were followed by the words “or any part thereof.” In addition, the following definitions apply in the interpretation of this chapter:

1. “Basement” means a portion of a building located partly underground but having at least one-half of its clear floor-to-ceiling height above adjoining ground level.
2. “Cellar” means a portion of a building located partly or wholly underground and having less than one-half of its clear floor-to-ceiling height above the adjoining ground level.
3. “Dormitory” means any dwelling where group sleeping accommodations are provided for persons not members of the same family groups in which several occupy large rooms or a series of closely associated rooms under joint occupancy and single management.

4. "Dwelling" means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
5. "Dwelling unit" means any room or group of rooms located within a dwelling and forming a single habitual unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.
6. "Exit" means that portion of a means of egress which is separated from all spaces of the building or structure by construction or equipment as required in this chapter to provide a protected way of travel to the exit discharge.
7. "Exit access" means that portion of a means of egress which leads to an entrance to an exit.
8. "Exit discharge" means that portion of a means of egress between the termination of an exit and a public way.
9. "Exterminating" means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Housing Inspector.
10. "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
11. "Habitable room" means a room or enclosed floor space used, or intended to be used, for living, sleeping, cooking or eating purposes, excluding bathrooms, recreation rooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storing spaces.
12. "Housing Inspector" means the official or officials of the City appointed to administer the provisions of this chapter.
13. "Infestation" means the presence within or around a dwelling of any insects, rodents, or other pests.
14. "Multiple dwelling" means any dwelling containing more than two dwelling units.
15. "Occupant" means any person over one year of age living, sleeping, cooking, eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.
16. "Operation" means any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.
17. "Owner" means any person who, alone or jointly or severally with others:
  - A. Has legal title to any dwelling unit, with or without accompanying actual possession thereof, or
  - B. Has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner.
  - C. Shall include the following relatives of the legal title holder; mother, father, brother, sister, son, daughter, grandparents, grandchildren, step children.

Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as if the representative were the owner.

18. "Permit" means a certificate certifying that the unit for which it is issued is in compliance with the applicable provisions of this chapter, which certificate shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided, and shall be renewed annually.

19. "Plumbing" means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, dishwashers, lavatories, bathtubs, shower baths, clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections and to water, sewer or gas lines.

20. "Rooming house" means any dwelling, or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to persons except those whose relationship to the owner or operator by blood, marriage, or legal adoption was the basis for occupancy.

21. "Rooming unit" means any group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking and eating purposes.

22. "Rubbish" means combustible and non-combustible waste materials, except garbage, and the term includes the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

23. "Supplied" means paid for, furnished or provided by or under the control of the owner or operator.

24. "Temporary permit" means a certificate certifying that the unit for which it is issued is not in compliance with the applicable provisions of this chapter and which certifies that the unit for which it is issued may be occupied for a time specified in said certificate pending the completion of the necessary improvements needed to bring it into compliance, said time period being determined by a reasonable time necessary for the completion of said improvements, not to exceed one year, and said temporary permit shall be in effect for said time period unless sooner suspended or revoked as provided in this chapter and shall not be renewable with the exception that one renewal may be granted if the original permit and the renewal do not exceed one year.

**159.05 PERMIT REQUIRED.** No person shall lease, rent, let, permit, or otherwise allow the occupancy of a dwelling, dwelling unit, or rooming unit, directly or through an authorized agent, unless the person holds a valid rental permit or a temporary permit for said dwelling, issued by the housing inspector in the name of the operator for a specific dwelling or dwelling unit. The permit or temporary permit shall be displayed in a conspicuous place within the dwelling at all time. Each temporary permit shall have clearly stamped thereon the words "TEMPORARY PERMIT" and the duration of said permit.

**159.06 PERMIT DENIED; APPEAL.** Any person whose application for a permit to operate a rental dwelling has been denied may request and shall be granted a hearing on the matter before the Housing Appeals Board under the procedure provided by Section 159.12.

**159.07 PERMIT FEE.** Before the Housing Inspector shall issue any permit or temporary permit under the provision of this chapter, there shall be paid by the owner or operator of the rental dwelling unit a fee, the amount of which shall be set by resolution of the Council. The fee for a temporary permit shall be the same as for a permit and a separate fee shall be due for

each and every renewal of a temporary permit and a separate fee shall be required for a regular permit issued after a temporary permit has expired or the unit has come into compliance.

**159.08 PERMIT SUSPENDED.** Whenever, upon inspection of any rental dwelling unit, the Housing Inspector finds that conditions or practices exist which are in violation of any provisions of this chapter, the Housing Inspector shall give notice in writing to the operator of such unit that unless such conditions or practices are corrected within a reasonable period, to be determined by the Housing Inspector, the operator's permit will be suspended. At the end of such period, the Housing Inspector shall re-inspect such unit and if the Housing Inspector finds that such conditions or practices have not been corrected, the Housing Inspector shall give notice in writing to the operator that the latter's permit has been suspended. Upon receipt of notice of suspension, such operator shall immediately cease operation of such rental dwelling unit and no person shall occupy for sleeping or living purposes therein, provided that in instances where violations of this chapter are confined to one of several dwelling units or rooming units within a dwelling and, in the judgment of the Housing Inspector, do not constitute a hazard to health or safety elsewhere, the Housing Inspector may limit the application of the requirement to vacate premises to the areas in which the violations exist.

**159.09 PERMIT SUSPENDED; APPEAL.** Any person whose permit to operate a rental dwelling unit has been suspended or who has received notice from the Housing Inspector that a permit is to be suspended unless existing conditions or practices are corrected, may request, and shall be granted, a hearing on the matter before the Housing Appeals Board under the procedure provided by Section 159.12 of this chapter, provided that if no petition for such hearing is filed within 10 days following the day on which such permit was suspended, such permit shall be deemed to have been automatically revoked.

**159.10 INSPECTIONS.** The Housing Inspector, or a duly authorized agent, is hereby authorized and directed to make inspections to determine the condition of all owner occupied dwellings, rental dwelling units, rooming units, and premises located within the City in order that the Housing Inspector or designee may perform the duty of safeguarding the health and safety of the occupants of dwellings and of the general public. The provisions of this chapter shall be enforced against owner-occupied single family dwellings and the occupants thereof only: (i) upon receipt of a complaint from a party identifying himself or herself, made or filed with City officials by a person not in the City's employ; or (ii) when such dwelling is directly involved in a project or program of structural improvement which is subsidized in whole or in part by public funds, and then only to the extent defined in that project or program. For the purpose of making such inspections, the Housing Inspector or a duly authorized agent is hereby authorized to enter, examine and survey at all reasonable times all owner occupied dwellings, rental dwellings, rental dwelling units, rooming units and premises, with the consent of the owner or a duly authorized agent. Such inspections shall be at reasonable times on the week days between the hours of 7:30 a.m. and 4:30 p.m., or at any other time when the owner or a responsible occupant or the authorized agent is by arrangement present. In the event that the owner, occupant, or authorized agent of the said owner shall refuse to allow the Housing Inspector or a duly authorized agent free access to such owner occupied dwellings, rental dwelling, rental dwelling units, rooming units and premises at reasonable times, then and in the event the Housing Inspector or a duly authorized agent shall secure a search warrant to inspect such units or premises on the basis of the refusal of the owner, occupants, or authorized agent to allow said inspector.

**159.11 NOTICE OF VIOLATION.** Whenever the Housing Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter,

the Housing Inspector shall give notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall:

1. Be put in writing.
2. Include a statement of the reasons why it is being issued.
3. Allow a specific time for the performance of any act it requires.
4. Be served upon the owner or owner's agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon the owner, owner's agent, or occupant personally or if a copy thereof is sent by certified mail to the last known address, or if owner, owner's agent or occupant is served with such notice by any other method authorized or required under the laws of the State.

Such notice may contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this chapter.

**159.12 HOUSING APPEALS BOARD.** For the purposes specified in this chapter there is hereby created a Housing Appeals Board, which shall be the Building Code Board of Appeals.

1. **Hearing.** Any person affected by any notice that has been issued in connection with the enforcement of any provisions of this chapter may request, and shall be granted, a hearing on the matter before the Housing Appeals Board, provided that such person shall file in the office of the Housing Inspector a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the date the notice was served. Upon receipt of such petition the Housing Inspector shall set a time and place for such hearing, shall give the petitioner written notice thereof, and shall take no further enforcement action pending the outcome of the hearing. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 30 days after the date on which the petition was filed, provided that upon application of the petitioner, the Housing Inspector may postpone the date of the hearing for a reasonable time beyond such 30-day period if, in the Housing Inspector's judgment, the petitioner has submitted a good and sufficient reason for such postponement.
2. **Action by Board.** After such hearing, the Housing Appeals Board shall by written order sustain, modify, or withdraw the violations cited in the Housing Inspector's notice, and reinstate or revoke the permit accordingly in said order, after consideration of whether the provisions of this chapter have been complied with.
3. **Record and Appeal.** The proceedings at such hearing, including the findings and decision of the Housing Appeals Board, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Housing Inspector. Such record shall also include a copy of every notice or order issued in connection with the matter. No hearing shall be valid unless a majority of the board is present and no decision at a hearing shall be valid and binding unless reached by a majority of the whole board. Any person aggrieved by the decision of the Housing Appeals Board may seek relief therefrom by appeal to the Iowa District Court, in and for Jasper County, Iowa.
4. **Emergency Order.** Whenever the Housing Inspector finds that an emergency exists which threatens immediately the public health, the Housing Inspector may issue an order reciting the existence of such an emergency and requiring that such action be

taken as the Housing Inspector deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but, upon petition to the Housing Inspector, shall be afforded a hearing at the earliest expedient time. After such hearing, depending upon its findings as to whether the provisions of this chapter have been complied with, the Housing Appeals Board shall continue such order in effect, modify it or revoke it.

5. Conflict. Enforcement of the Housing Code shall not be construed for the particular benefit of any individual or group of persons, other than the general public. In the event of a conflict between this section and any other section of the Housing Code, this section shall govern insofar as applicable.

6. Liability. The City or any employee is not liable for damages to a person or property as a result of any act or failure to act in the enforcement of the Housing Code. The Housing Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects, nor shall the City or any City employee be held as assuming any such liability by reason of the inspections authorized by this Code or any approvals issued under this Code.

**159.13 HOUSING QUALITY STANDARDS.** The following housing quality standards are derived from the housing quality standards as promulgated by the United States Department of Housing and Urban Development and published in the Federal Register, Volume 43, Number 251, on Friday, December 29, 1978, and are adopted to establish a Housing Code pursuant to House File 2536 (68th G.A., 1979).

1. Sanitary Facilities.
  - A. Performance Requirement. The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.
  - B. Acceptability Criteria. A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall drain into an approved public or private disposal system.
2. Food Preparation and Refuse Disposal.
  - A. Performance Requirement. The dwelling unit shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.
  - B. Acceptability Criteria. The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the owner or the family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services outdoors for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

3. Space and Security.
  - A. Performance Requirement. The dwelling unit shall afford the family adequate space and security.
  - B. Acceptability Criteria. A living room, kitchen area, and bathroom shall be present and the dwelling unit shall contain at least one sleeping or living/sleeping room. Every dwelling unit shall have at least one room which shall have not less than 150 square feet of floor area. Other habitable rooms except kitchens shall have an area of not less than 70 square feet. Exterior doors and windows accessible from outside the unit shall be lockable.
4. Thermal Environment.
  - A. Performance Requirement. The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.
  - B. Acceptability Criteria. The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil or kerosene are unacceptable.
5. Illumination and Electricity.
  - A. Performance Requirement. Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.
  - B. Acceptability Criteria. Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two 115V. duplex electrical convenience outlets shall be present and adequately located to limit the use of extension cords in the living area, kitchen area and each bedroom area. All electrical wiring shall be maintained in a safe condition, shall be used in a safe manner, and properly operate for the use for which it is intended.
6. Structure and Materials.
  - A. Performance Requirement. The dwelling shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment. All dwellings shall be properly maintained and kept in good repair so they do not have a blighting influence on their neighborhood or the City.
  - B. Acceptability Criteria. Every footing, foundation, roof, gutter, leader, downspout, wall, door, window, skylight, ceiling, floor, plumbing fixture, heating apparatus, chimney vent, electrical equipment, and screen must be maintained in sound condition, rodent-proof and in good repair. All exterior foundation walls shall be properly graded and drained so as to be kept free of stagnant water. All exterior wood surfaces other than decay resistant woods shall be painted or protected by covering or treatment using non-toxic materials where readily accessible to children. All exterior stairways, porches, and other appurtenances shall be kept in sound condition and shall be capable of supporting the loads that normal use may cause to be placed thereon. All stairs

shall have uniform risers and treads. All repairs shall be done in a workmanlike manner and the site maintained in a safe and sanitary condition.

7. Interior Air Quality.
  - A. Performance Requirements. The dwelling units shall be free of pollutants in the air at levels which threaten the health of the occupants.
  - B. Acceptability Criteria. The dwelling units shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, excessive dust and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.
8. Water Supply.
  - A. Performance Requirements. The water supply shall be free from contamination.
  - B. Acceptability Criteria. The unit shall be served by an approved public or private sanitary water supply.
9. Lead Based Paint.
  - A. Performance Requirement. The dwelling unit shall be in compliance with HUD Lead Based Paint regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 24 U.S. C. 4801; and the owner shall provide a certification that the dwelling is in accordance with such HUD regulations. If the property was constructed prior to 1978, the requirements of Title IV of the Lead Based Paint Poisoning Prevention Act apply.
  - B. Acceptability Criteria. Same as Performance Requirement.
10. Access Performance Requirements. The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties and the building shall provide an alternate means of egress in case of fire (such as fire stairs or egress through windows). Every sleeping room below the fourth story shall have at least one operable window with a finished sill height of not more than 44 inches above the floor or an exterior door approved for emergency egress or rescue.
11. Site and Neighborhood Performance Requirements. The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or man made, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazards or mudslides, abnormal air pollution, smoke or dust, excessive noise, vibration or vehicular traffic, excessive accumulations of trash, vermin or rodent infestation, or fire hazards.
12. Sanitary Condition.
  - A. Performance Requirement. The unit and its equipment shall be in sanitary condition.
  - B. Acceptability Criteria. The units and its equipment shall be free of vermin and rodent infestation.
13. Early Warning Fire Protection System.
  - A. Performance Requirement. The owner shall provide and maintain smoke detectors for each rental dwelling unit and room unit. If the smoke

detector within an individual dwelling unit or rooming unit requires routine replacement of batteries for proper operation, the owner or operator may require the tenant of the dwelling unit or rooming unit to be responsible for such. In this event, the owner or operator shall adequately notify the tenant of this responsibility. Smoke detectors located in common areas of multiple dwellings or rooming houses, such as stairways, corridors and basements shall be maintained by the owner or operator of the dwelling. No person shall alter or tamper with a smoke detector or otherwise interfere with its operating characteristics.

B. Acceptability Criteria. All dwelling units shall be provided with smoke detectors as approved by the Housing Inspector. The detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. Smoke detectors hereafter installed in areas where sleeping rooms are on an upper level shall be placed above the stairway. All detectors shall be located according to the manufacturers' directions. Care shall be exercised to ensure that the installation will not interfere with the operating characteristics of the detector. When actuated, the detector shall provide an alarm for the dwelling unit or rooming unit.

14. Additional Provisions. Additional provisions for multiple dwellings and rooming houses containing more than four persons not related to the owner or operator by blood, marriage or legal adoption.

A. Performance Requirement. All multiple dwellings and rooming houses shall comply to the fire safety rules provided for in Section 680-5.803(100) of the Iowa Administrative Code.

B. Acceptability Criteria.

(1) Exits. Each living unit and rooming unit shall have access to at least two separate exits which are remote from each other and are reached by travel in different directions, except that a common path of travel may be permitted for the first 20 feet; that is, a dead-end corridor serving apartments may be permitted not to exceed 20 feet in length.

(2) Exception No. 1. Each living unit or rooming unit which has an exit directly to the street or yard at ground level or by way of an outside stairway or an enclosed stairway with fire resistance rating of one hour or more serving that unit only and not communicating with any floor below the level of exit discharge or other area not a part of the unit served may have a single exit.

(3) Exception No. 2. A building of any height with not more than four dwelling or rooming units per floor with a smoke proof tower or outside stair as the exit, immediately accessible to all units served thereby, may have a single exit. ("Immediately accessible" means a travel distance of 20 feet maximum from the door of a unit to the door of an open-air vestibule or balcony leading to a smoke proof tower.)

(4) Exception No. 3. Any building three stories or less in height with no floor below the level of exit discharge, or, in case there is such a floor, with the street floor construction of at least one hour fire resistance may have a single exit, under the following conditions:

- a. The stairway is completely enclosed with a partition having a fire resistance rating of at least one hour with self-closing 45-minute fire protection rated doors protecting all openings between the stairway enclosure and the building.
- b. The stairway does not serve any floor below the level of exit discharge.
- c. All corridors serving as access to exits have at least a one hour fire resistance rating.
- d. There is not more than 20 feet of travel distance to reach an exit from the entrance door of any dwelling unit or rooming unit.

C. Protection of Vertical Openings.

(1) All stairways, elevator shafts and other vertical openings shall be enclosed or protected with material equal to one-hour, fire resistive construction. All required exit stairs which are located so that it is necessary to pass through the lobby or other open space to reach the outside of the building shall be continuously enclosed down to the lobby level. In lieu of protecting vertical openings, the owner may elect to install a detection and alarm system approved by the Housing Inspector.

(2) Unprotected vertical openings may be permitted in fire resistive buildings with Class A finish, or in sprinklered buildings, not to exceed two floors. This paragraph is to permit open stairways from the lobby to the mezzanine level or open stairs from the lobby to basement areas used for hotel purposes.

(3) Wire glass, not to exceed 900 square inches in any single frame, may be used in stairway doors.

(4) All doors to stairway enclosures shall be protected by a fire assembly having a one-hour fire protection rating and shall be a self-closing type.

D. Interior Finish. The exit ways, lobbies, public assembly meeting rooms and corridors shall have Class A interior finish. Class A finish shall mean the use of materials having a flame spread of less than 25 as rated by the National Board of Underwriters Laboratories.

E. Exit Lighting and Signs. All apartment buildings two or more stories high and having more than 10 apartment units shall have corridor and exit signs. The illumination of corridor and exit signs shall be such that people of normal vision can move freely and the exit signs shall be legible at all times from any common corridor area.

F. Hazardous Occupancies. Hazardous occupancies in apartment buildings, such as boiler rooms, utility rooms and general storage areas, shall be protected by walls and fire doors constructed of materials providing at least a minimum of one-hour fire rating. In lieu of this protection, a detection and alarm system approved by the Housing Inspector shall be provided.

G. Fire Protection Equipment and Devices. Approved type fire extinguishers shall be provided on each floor, so located that they will be accessible to the occupants and spaced so that no person will have to travel more than 75 feet from any point to reach the nearest extinguisher. Additional extinguishers may be installed in areas that constitute a special hazard. Type and number of portable fire extinguishers shall be determined by the Housing Inspector. As an alternative, each multiple dwelling unit may be equipped with a fire extinguisher having a 2A rating to be provided by the owner and maintained by the tenant.

**159.14 UNFIT DWELLINGS; LEGAL PROCEDURES OF CONDEMNATION.** No person shall let to another for occupancy any rental dwelling or rental unit for the purpose of living, sleeping, cooking or eating thereon which does not comply with the following requirements:

1. Unfit for Human Habitation. Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Housing Inspector.
  - A. One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.
  - B. One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.
  - C. One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
2. Vacated Immediately. Any dwelling or dwelling unit, or any portion thereof, condemned as unfit for human habitation and so designed and placarded by the Housing Inspector shall be vacated immediately as ordered by the Housing Inspector.
3. Elimination of Defects. No dwelling or dwelling unit, or portion thereof, which has been condemned and placarded as unfit for human habitation, shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Housing Inspector. The Housing Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
4. Deface or Remove Placard. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in Subsection 3 above.
5. Appeal. Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request, and shall be granted, a hearing on the matter before the Housing Appeals Board under the procedure set forth in Section 159.12 of this chapter.

**159.15 PENALTIES AND REMEDIES.** Violation of the provisions of this chapter shall constitute a simple misdemeanor subject to the penalty provided in this Code of Ordinances, or in the alternative, the Council may institute civil proceedings to obtain injunctive and declaratory relief or such other orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of the Minimum Housing Code of the City, as amended.

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## CHAPTER 160

# FLOOD PLAIN REGULATIONS

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**160.01 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
  - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.05(4)(A) of this chapter; and
  - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and
  - D. The enclosed area is not a basement, as defined in this section.
7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

8. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. "Factory-built home" means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. "500-year flood" means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. "Flood insurance rate map" (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. "Flood insurance study" (FIS) means a report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.
17. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
18. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
19. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

20. "Floodway fringe" means those portions of the special flood hazard area outside the floodway.
21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of "enclosed area below lowest floor" are met.
24. "Maximum damage potential development" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
26. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
- A. Built on a single chassis;

- B. 400 square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window panes;
  - E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within the City subject to the base flood. This land is identified on the City's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
32. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.
33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.
34. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

36. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

#### **160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.**

1. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Paragraph 2(A) of this section with provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

### **160.03 GENERAL PROVISIONS.**

1. **Lands to Which Chapter Applies.** The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City. For the purpose of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Jasper County and Incorporated Areas, City of Colfax, Panels 19099C0134D, 19099C0142D, 19099C0153D, and 19099C0161D, dated October 5, 2018, which is hereby adopted and made a part of this chapter. The Flood Insurance Study for Jasper County is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.
2. **Rules for Interpretation of Flood Hazard Boundaries.** The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Mayor shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor in the enforcement or administration of this chapter.
3. **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
4. **Abrogation and Greater Restrictions.** It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
5. **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
6. **Warning and Disclaimer of Liability.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

7. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

#### **160.04 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of Administrator.

A. The Mayor is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administration an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the Zoning Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

a. Development placed within the Floodway results in an increase in the base flood elevations or alteration to the floodway boundary.

b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or

c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of material and equipment, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all structures and additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.

(7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Zoning Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that

authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

**160.05 FLOODPLAIN MANAGEMENT STANDARDS.** All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the base flood elevation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where: (i) the bridge or culvert is located on a stream that drains less than two square miles; and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567 IAC 71.2(2).

1. All Development. All development within the special flood hazard areas shall:
  - A. Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from federal, State, and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevations. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevations and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Zoning Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.
3. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary

systems, be flood proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings, with positioning on at least two walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities elevated or flood proofed to a minimum of one foot above the base flood elevation.

5. Factory-Built Homes.

A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

6. Utility and Sanitary Systems.
  - A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.
  - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.
  - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.
11. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
  - A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure

located less than one foot above the BFE must be constructed of flood-resistant materials.

B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

D. The structure shall be firmly anchored to resist flotation, collapse, and lateral movement.

E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

F. The structure's walls shall include openings that satisfy the provisions of Subsection 4(A) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988)

to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

#### **160.06 ESTABLISHMENT OF VARIANCE PROCEDURES.**

1. The Zoning Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors upon Which the Decision of the Zoning Board of Adjustment Shall Be Based. In passing upon applications for variances, the Zoning Board of Adjustment shall consider all relevant factors specified in other sections of this chapter and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

- E. The importance of the services provided by the proposed facility to the City.
  - F. The requirements of the facility for a floodplain location.
  - G. The availability of alternative locations not subject to flooding for the proposed use.
  - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
  - M. Such other factors which are relevant to the purpose of this chapter.
3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:
- A. Modification of waste disposal and water supply facilities.
  - B. Limitation of periods of use and operation.
  - C. Imposition of operational controls, sureties, and deed restrictions.
  - D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
  - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

#### **160.07 NONCONFORMING USES.**

- 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
  - A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**160.08 PENALTIES FOR VIOLATION.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

**160.09 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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# CHAPTER 165

## ZONING REGULATIONS

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## GENERAL PROVISIONS AND DEFINITIONS

**165.01 SHORT TITLE.** This chapter shall be known and may be cited as the “City of Colfax, Iowa, Zoning Ordinance.”

**165.02 PURPOSE.** The purpose of this chapter is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, safety, and general welfare in the City.

**165.03 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this chapter 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, structure, or land shall hereafter be used or occupied, no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
2. 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 chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
3. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

4. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.
5. All structures existing, as of the effective date of this chapter and which comply with the terms and conditions of this chapter, shall be considered lawful and be allowed to continue and exist.

#### **165.04 ESTABLISHMENT OF DISTRICTS; OFFICIAL ZONING MAP.**

1. Official Zoning Map. The City shall be divided into districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, shall be adopted by ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk and bearing the Seal of the City, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 165.04(1) of Ordinance No. \_\_\_\_\_ of the City of Colfax, Iowa," together with the date of adoption. If, in accordance with the provisions of this chapter and Chapter 414, *Code of Iowa*, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "By official action of the City Council, the following changes were made on the Official Zoning Map." (Indicating the changes by ordinance numbers and date of publication.) No amendment of this chapter which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map. (*See Editor's Note at the end of this chapter for Ordinances amending Zoning Map.*)
2. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. \_\_\_\_\_ of the City of Colfax, Iowa." Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**165.05 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following such City limits.

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 3 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of adoption of this chapter, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
9. Whenever Council vacates and disposes of a street or alley, adjacent districts shall extend to the center line of the vacation.
10. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this chapter, the legal description applies.

**165.06 DEFINITIONS.** For the purposes of this chapter, the words “used or occupied” include the words “intended, designed, or arranged to be used or occupied;” the word “lot” includes the words “plot or parcel;” and the following terms or words used herein shall be interpreted as follows:

1. “Abutting” means having property or district lines in common.
2. “Access” means a way of approaching or entering a property from a public street or alley.
3. “Accessory buildings” means a subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
4. “Accessory use” means a use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal lawful use or building.
5. “Agriculture” means the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, mules, or goats, or any mutations or hybrids thereof including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; or lands devoted to a soil conservation or forestry management program.

6. “Alley” means a public way, other than a street, affording secondary means of access to abutting property.
7. “Basement” means a story having part but not more than one-half its height above grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five feet.
8. “Bed and breakfast houses” means a house or portion thereof where short-term lodging, rooms, and meals are provided for three or more persons. The operator shall live on the premises.
9. “Board” means the Board of Adjustment.
10. “Boarding house” means a building other than a hotel where, for compensation, meals and lodging are provided for four or more persons.
11. “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 and not including structures, or vehicles originally designed for transportation purposes.
12. “Building, height of” means the vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.
13. “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.
14. “Dwelling” means any building, or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, recreational vehicle, or mobile home.
15. “Dwelling, multiple” means a building or portion thereof designed for or occupied exclusively for residence purposes by three or more families.
16. “Dwelling, single-family” means a building designed for or occupied exclusively by and for residence purposes by one family.
17. “Dwelling, two-family” means a building designed for or occupied exclusively by and for residence purposes by two families.
18. “Family” means one or more persons related by blood, marriage, or adoption occupying a single dwelling unit. A family shall include not more than four persons not related by blood, marriage, or adoption; however, domestic employees employed on the premises may be housed on the premises without being counted as a family or families.
19. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C, *Code of Iowa*, or as a child foster care facility under Chapter 237, *Code of Iowa*, to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, “family home” does not mean an individual foster care family home licensed under Chapter 237, *Code of Iowa*.
20. “Frost-free foundation” means foundation supporting a structure and which is required to be at least 48 inches below grade.

21. “Garage” means a building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired, or kept.
22. “Garage, private” means a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
23. “Garage, public or storage” means a building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.
24. “Grade” means the average elevation of the finished ground at the exterior walls of the main building.
25. “Health care facility” means any residential care facility, intermediate care facility, or skilled nursing facility.
- A. Residential Care Facility - Any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.
- B. Intermediate Care Facility - Any institution, place, building or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.
- C. Skilled Nursing Facility - Any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hours per day basis.
26. “Home occupation” means an occupation conducted in a dwelling unit, provided that:
- A. No persons other than members of the family residing on the premises shall be engaged in such occupation, except by special exception of the Board of Adjustment, in which case the Board may allow up to one additional person from outside the family to be employed.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 50 percent of the gross floor area of one floor of the dwelling unit shall be used in the conduct of the home occupation.

- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, nonilluminated, and mounted flat against the wall of the principal building.
- D. No home occupation shall be conducted in any accessory building except by special exception of the Board of Adjustment.
- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuations in line voltage off the premises.
27. "Hospital" means an institution which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding 24 hours of two or more nonrelated individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding 24 hours of obstetrical or other medical or nursing care for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding 24 hours of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanitariums or other related institutions. Provided, however, this shall not apply to hotels or other similar places that furnish only food and lodging, or either, to their guests. "Hospital" shall include, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to Public Law 725, 79th Congress, approved August 13, 1946.
28. "Hotel" means a building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms with no provision made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office.
29. "Junk yard" means any area where waste, discarded or salvaged materials, or junk or junk vehicles as defined in Chapter 51, are stored, kept, bought, sold, exchanged, baled, packed, disassembled or handled, including places or yards for storage of salvaged house materials or structural steel materials or salvaged equipment; but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.
30. "Kennel, commercial" means an establishment in which three or more dogs or domestic animals more than four months old are housed, groomed, bred, boarded, trained, or sold.
31. "Lodging house" means a building originally designed for or used as single-family, two-family, or multiple-family dwelling, all or a portion of which contains

lodging rooms or rooming units which accommodate persons who are not members of the keeper's family. Lodging or meals, or both, are provided for compensation. The term "lodging house" shall be construed to include: boarding house, rooming house, fraternity house, sorority house and dormitories.

32. "Lot" means for purposes of this chapter, a parcel of land of at least sufficient size to meet minimum zoning 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 approved public street, or on an approved private street, and may consist of:

- A. A single lot of record.
- B. A portion of a lot of record.
- C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.
- D. 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 chapter.

33. "Lot frontage" means the front of a lot shall be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of "Yards" in this section.

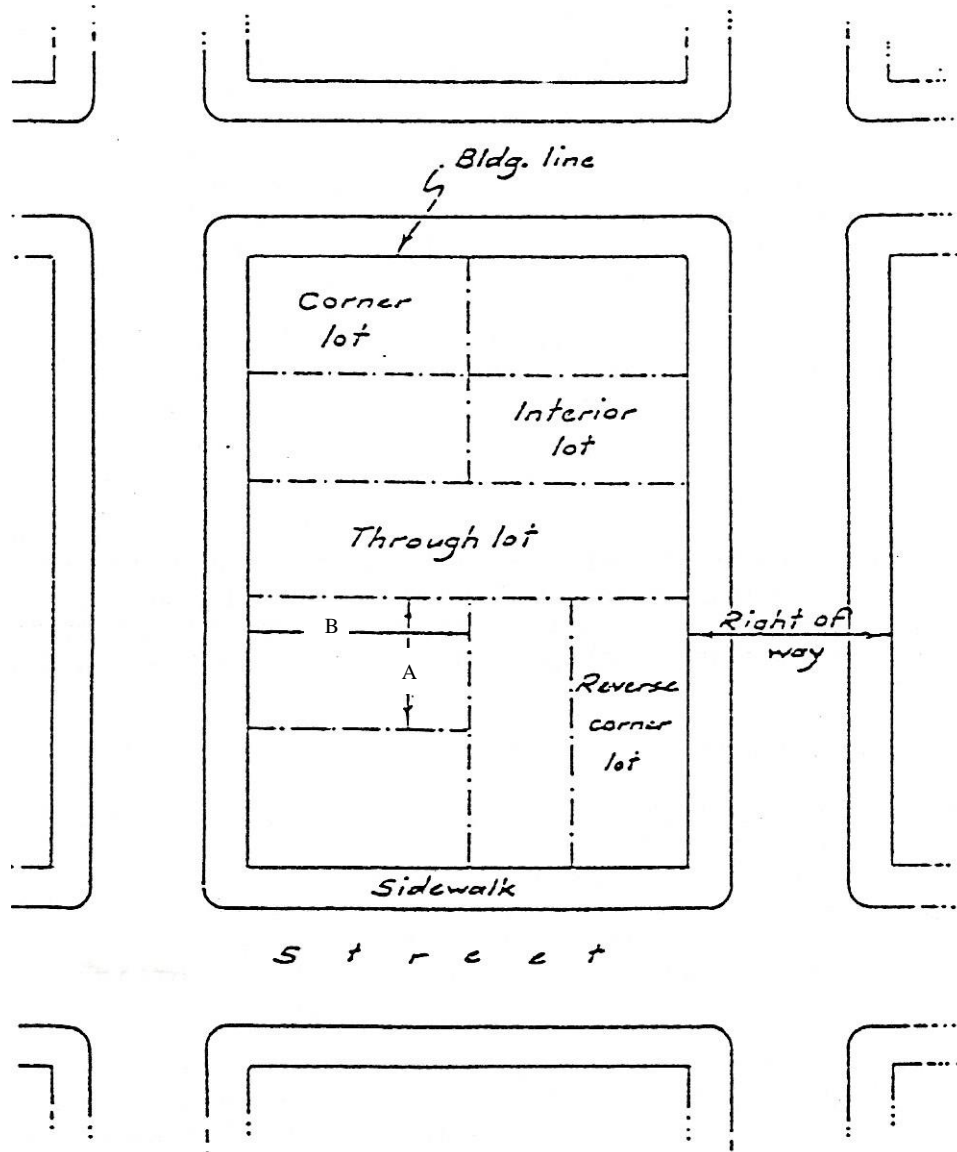
34. "Lot measurements":

- A. Depth of a lot shall be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- B. Width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of cul-de-sac where 80 percent requirement shall not apply.

35. "Lot of record" means a lot which is part of a subdivision recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

36. "Lot types" - The chart on the following page illustrates terminology used in this chapter with reference to corner lots, interior lots, through lots, and reversed corner lots as follows:

- A. Corner lot - a lot located at the intersection of two or more streets.
- B. Interior lot - a lot other than a corner lot with only one frontage on a street other than an alley.
- C. Through lot - a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two non-intersecting streets may be referred to as through lots.
- D. Reversed corner lot - 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.

**CHART – LOT**

A – width of lot

B – depth of lot

37. “Manufactured home” means a manufactured home shall be located and installed according to the same standards, including but not limited to, a foundation system, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. A manufactured home is a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in 435.1 of the *Code of Iowa* is not a manufactured home, unless it has been converted to real property as provided in 435.26 of the *Code of Iowa* and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

38. “Mobile home” means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirtings, and which is, has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term “mobile home” shall include camp car and house car.

39. “Modular home” means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

40. “Motel” (also motor hotel, motor court, motor lodge, or tourist court) means a building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guest’s vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

41. “Nonconformities” means lots, structures, uses of land and structures, or characteristics of uses, which are prohibited under the terms of the Zoning Ordinance but were lawful at the date of this chapter’s enactment.

42. “Nursing or convalescent home” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane and other mental cases, inebriate, or contagious cases.

43. “Parking space” means an area of not less than 180 square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

44. “Permitted use” means a use by right which is specifically authorized in a particular zoning district.

45. “Preschool/child care center” means an establishment providing for the care, supervision and protection of children for a fee.

46. “Principal use” means the main use of land or structures as distinguished from an accessory use.

47. “Projections” (into yards) means parts of buildings such as architectural features that extend beyond the building’s exterior wall.

48. “Recreational vehicle” means a vehicular type, portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a

temporary living accommodation for recreational camping and travel use and including but not limited to travel trailers, truck campers, camping trailers, boats and boat trailers, and self-propelled motor homes.

49. “Service station” (gas station) means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefor, or where battery, tire or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

50. “Setback” means the required distance between every structure and lot line on the lot in which it is located.

51. “Signs” means any advertising device or surface out-of-doors, on or off premises, on which letters, illustrations, designs, figures or symbols are printed or attached and which conveys information or identification.

52. “Signs, off-premises” means an advertising device including the supporting structure which directs the attention of the general public to a business, service, or activity not usually conducted or a product not usually sold upon the premises where such a sign is located. Such a sign shall not include: On-premises signs, directional, or other official sign or signs which have a significant portion of their face devoted to giving public service information (date, time, temperature, weather, information, etc.).

53. “Signs, on-premises” means an advertising device concerning the sale or lease of the property upon which they are located and advertising devices concerning activities conducted or products sold on the property upon which they are located.

54. “Statement of intent” means a statement preceding regulations for individual districts, intended to characterize the districts and their legislative purpose.

55. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

56. “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 apartments or living quarters shall be counted as a full story.

57. “Street” means all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefor, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle, or however otherwise designated.

58. “Street line” means the right-of-way line of a street.

59. “Structural alteration” means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

60. “Structure” means anything constructed or erected and enclosed which requires location on the ground or attached to something having location on the ground, including signs and billboards and excluding temporary political and real estate signs but not including fences or walls used as fences.

61. “Swimming pool” means an artificial basin and its appurtenances, either constructed or operated for swimming, wading or diving, and includes a swimming pool, wading pool, waterslide or associated bathhouse. “Swimming pool” does not

include a decorative fountain which does not serve primarily as a wading or swimming pool and the drain of said fountain is not connected to any type of suction device for removing or the recirculation of the water. "Swimming pool" does not include temporary children's wading pools under two feet in depth.

62. "Use" means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

63. "Variance" means a device used by the Board of Adjustment which grants a property owner relief from certain provisions of a Zoning Ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in particular hardship upon the owner, and which further meets the criteria established in Section 165.61(3)(A) of this chapter.

64. "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. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. Fences and walls are permitted in any yard, subject to height limitations as indicated herein.

65. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. On corner lots the front yard shall be either side for the purpose of selecting the rear yard. Corner lots shall meet the front yard requirements on each street frontage. (See chart on following page.)

66. "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. (See chart on following page.)

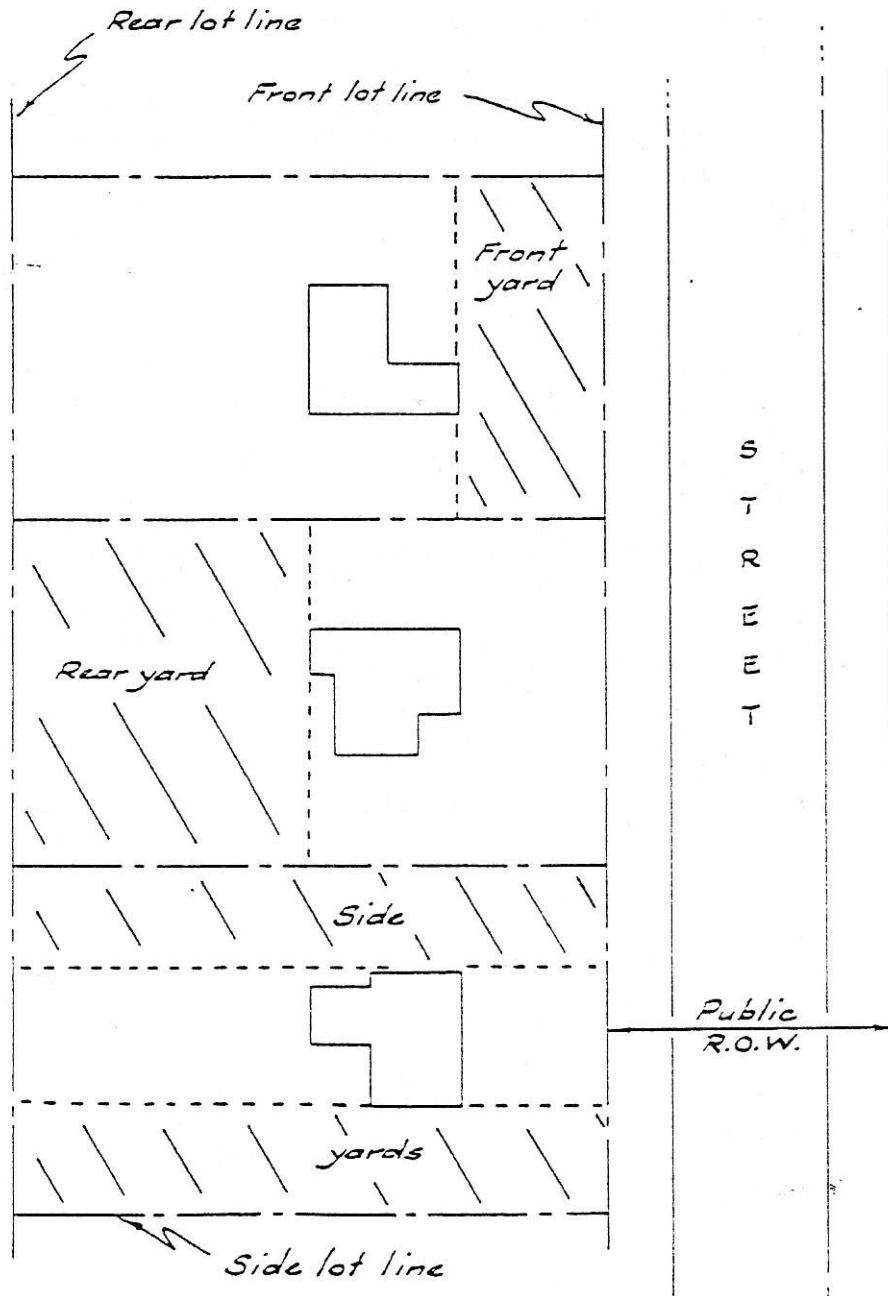
67. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building. On corner lots the yard not designated as front or rear yard shall be considered the side yard. Each corner lot shall have two fronts, a rear and one side yard. (See chart on following page.)

68. "Zoning Administrator" means the local official responsible for reviewing zoning/building permits and following a determination by the Zoning Board of Adjustment for special exceptions and variances. Decisions of the official may be appealed to the Board of Adjustment. Permits are issued by the Zoning Administrator and reviewed/approved by the City Council.

69. "Zoning District" means a section the City designated in the text of the Zoning Ordinance and delineated on the Zoning Map in which requirements for the use of land, the building and development standards are prescribed. Within each district, all requirements are uniform.

70. "Zoning Map" means the map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Ordinance.

# CHART - YARD



[The next page is 893]

## NONCONFORMITIES

**165.10 NONCONFORMITIES.** Within the districts established by this chapter there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the Zoning Ordinance was passed or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**165.11 NONCONFORMING LOTS OF RECORD.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, provided other limitations imposed by this chapter are complied with. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, if the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the action of the Board of Adjustment.

**165.12 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY).** Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of six months or 12 months during any three-year period, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located. Any changes of use to a more restrictive and less nonconforming use shall only be allowed if approved by special exception of the Board of Adjustment.
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

**165.13 NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the

lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means or to any extent equal to less than 60 percent of its replacement value, it shall be allowed to be reconstructed to its previous dimensions or to dimensions which decrease the nonconformity, except in conformity with the provisions of this chapter. Said reconstruction shall be started within six months of the destruction and be completed within two years or the nonconforming status shall be removed. If destruction is greater than 60 percent, reconstruction must conform to current regulations/ordinances.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**165.14 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.** If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises) the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located except by special exception of the Board of Adjustment.

6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of the subsection is defined as damage to an extent of more than 60 percent of the replacement cost at time of destruction. Replacement shall conform with current regulations/ordinances.

**165.15 REPAIRS AND MAINTENANCE.** On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the square footage of floor area of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

[The next page is 901]

**DISTRICT REGULATIONS**

**165.20 DISTRICTS ESTABLISHED.** The City is herewith divided into the following districts:

AG	Agricultural District
CN	Conservation District
RS	Residential Single-Family District
RM	Residential Multi-Family District
MH	Mobile Home District
AC	Arterial Commercial District
BC	Business Commercial District
LI	Light Industrial District
AX	Adult Use District

These districts are established as identified on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this chapter.

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**165.22 AG – AGRICULTURAL DISTRICT.**

1. Intent. This district is intended to provide for areas in which agriculture and related uses are encouraged as the principal use of land. However, uses which may be offensive to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic or physical appearance or other similar factors are not permitted. The district prohibits urban density residential use until these areas may be served by utilities and services of the City. This district is also intended to preserve land suited for eventual development into other uses, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities, so that reasonably compact development will occur and the fiscal integrity of the City is preserved. All newly annexed areas to the City will automatically be placed into this district classification unless otherwise suitably classified.
2. Permitted Uses. The following uses are permitted in the AG District:
  - A. Agriculture, including the usual agricultural buildings, dwellings and structures and excluding offensive uses.
  - B. Home occupations.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the AG District:
  - A. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
  - B. Private garages, barns and other farm buildings.
  - C. Roadside stands offering for sale only agricultural products or other products produced on the premises.
  - D. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
  - E. Satellite dishes.
4. Special Exceptions. Certain uses may be permitted in the AG District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
  - A. Cemeteries, crematories or mausoleums.
  - B. Commercial kennels.
  - C. Stables, private or public.
  - D. Greenhouses and nurseries.
  - E. Publicly operated sanitary landfills.
  - F. Private recreational camps, golf courses and recreational facilities.
  - G. Public or private utility substations, relay stations, etc.
  - H. Churches or accessory facilities (on or off site).
  - I. Publicly owned and operated buildings and facilities.
  - J. Extraction of minerals or raw materials.

K. Off-premises signs, excluding real estate and political signs.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AG District:

1. Minimum Lot Area	1. Minimum Lot Width	1. Minimum Front Yard	1. Minimum Side Yard	1. Minimum Rear Yard	1. Maximum Height (lesser of)
1. 5 acres	2. 300 feet	2. 50 feet	2. 30 feet	2. 50 feet	2. 2½ stories or 35 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the AG District:

A. Dwellings: two parking spaces on the lot for each living unit in the building.

B. Churches: one parking space on the lot for each five seats in the main auditorium.

C. Public buildings and facilities: one parking space for each 300 square feet of gross floor area or one parking space for each five seats in the main assembly area.

D. Roadside stands: one parking space for each 50 square feet of enclosed floor area.

E. Greenhouses and nurseries: one parking space per 1,000 square feet of enclosed floor area.

7. Off-Street Loading. The following off-street loading requirements shall apply in the AG District:

A. All activities or uses allowed in the AG District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AG District:

A. On-premises signs are permitted as well as real estate or political signs.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal or device.

E. Signs shall not encroach or extend over public right-of-way.

F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.

G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 911]

**165.24 CN – CONSERVATION DISTRICT.**

1. Intent. This district is intended to prevent, in those areas which are subject to periodic or potential flooding, such development as would result in a hazard to health or safety or be otherwise incompatible with the public welfare. This district is also intended to provide for water conservation, erosion control, protection of wildlife habitat, protection of natural erosion control, protection of natural drainage ways and generally to provide for ecologically sound land use of environmentally sensitive areas.
2. Permitted Uses. The following uses are permitted in the CN District:
  - A. Undeveloped and unused land in its natural condition.
  - B. Public parks and recreation open space.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the CN District:
  - A. Agriculture, exclusive of dwelling units.
  - B. Agricultural or recreational buildings or structures whose use or value would not be impaired by being flooded.
  - C. Flood control structures.
  - D. Roadside stands offering for sale only agricultural products or other products produced on the premises.
  - E. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the CN District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
  - A. Cemeteries, crematories or mausoleums.
  - B. Stables, private or public.
  - C. Greenhouses and nurseries.
  - D. Private recreational uses.
  - E. Public or private utility substations, relay stations, etc.
  - F. Publicly owned buildings and facilities.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the CN District:

1. Minimum Lot Area	1. Minimum Lot Width	1. Minimum Front Yard	1. Minimum Side Yard	1. Minimum Rear Yard	1. Maximum Height (lesser of)
1. 2 acres	2. 150 feet	2. 50 feet	2. 30 feet	2. 50 feet	2. 2½ stories or 35 feet, excluding

					farm buildings
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6. Off-Street Parking. The following off-street parking requirements shall apply in the CN District:

- A. Roadside stands: one parking space for each 50 square feet of floor area.
- B. Greenhouses and nurseries: one parking space per 1,000 square feet of enclosed floor area.

7. Off-Street Loading. The following off-street loading requirements shall apply in the CN District:

- A. All activities or uses allowed in the CN District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the CN District:

- A. Off-premises signs, except for real estate or political signs, are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 917]

**165.26 RS – RESIDENTIAL SINGLE-FAMILY DISTRICT.**

1. Intent. This district is intended to provide for a variety of single-family and two-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Low and medium population density neighborhoods are recognized and provided for. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various single-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RS District:
  - A. Single-family detached dwellings.
  - B. Two-family dwellings.
  - C. Family homes.
  - D. Home occupations.
  - E. Elder homes.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RS District:
  - A. Private garages and storage sheds.
  - B. The keeping or raising of pigs, fowl, sheep, goats, cattle or horses is prohibited. The raising and keeping of other animals is prohibited on a commercial basis.
  - C. Private Swimming Pools. Private swimming pools shall have a non-climbable fence which means a solid wall, chain link with squares maximum size of two and three-eighths inches, or other fence of similar rigidity with vertical spacing less than two inches and horizontal spacing less than four inches. All openings in any fence are to be small enough not to allow the passage of a four-inch diameter sphere. The fence must be at least six feet in height and be secured against public access. All enclosure gates or doors immediately opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. A temporary pool may have a freestanding fence that meets these standards. Pools in place for six months or more will need to have a permanent fence. All ladders or step apparatus used for access to any aboveground pool or temporary wading pool as defined in Section 165.06(61) shall be removed when the pool is not in actual use.
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed within 30 days of the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the RS District subject to specific conditions and requirement intended to make them compatible with and acceptable to adjacent uses:
  - A. Preschools and child care centers.

- B. Public or private utility substations, relay stations, etc.
- C. Churches.
- D. Publicly owned and operated buildings and facilities.
- E. Senior high schools, elementary and junior high schools and equivalent private and parochial schools.
- F. Golf courses but not miniature courses or separate driving tees.
- G. Bed and breakfast houses.
- H. Hospitals.
- I. Home occupations in accessory buildings.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RS District:

Zoning Symbol	Minimum Lot Area (Square feet)	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Height (lesser of)
5 RS*	5,000	40	20	6	20	2½ stories or 35 feet
10 RS	10,000	75	25	8	35	2½ stories or 35 feet
*Applies to existing lots of record at the time of adoption of this chapter.						

6. Off-Street Parking. The following off-street parking requirements shall apply in the RS District:

- A. Dwellings: two parking spaces on the lot for each living unit in the building. For dwellings not consisting of living units: two parking spaces on the lot for each 2,000 square feet of floor area.
- B. Churches: one parking space within 400 feet of the lot for each five seats in the main auditorium.
- C. Public buildings and facilities: one parking space for each 300 square feet of gross floor area or one parking space for each five seats in the main assembly area.
- D. Elementary, junior high and equivalent private or parochial schools: one parking space for each classroom and office plus one parking space per each 300 square feet of gross floor area in auditorium or gymnasium.
- E. Senior high schools and equivalent private or parochial schools: one parking space for each employee and one parking space for each 10 students.
- F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one parking space for each employee and one parking space for each five students.
- G. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
- H. Preschools and child care centers: one parking space per employee.

7. Off-Street Loading. The following off-street loading requirements shall apply in the RS District:
  - A. All activities or uses allowed in the RS District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
  - B. Loading shall not be permitted to block public right-of-way.
8. Signs. The following sign regulations shall apply to the RS District:
  - A. Off-premises signs, except real estate or political signs, are not permitted.
  - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
  - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - D. No sign may imitate or resemble an official traffic control sign, signal or device.
  - E. Signs shall not encroach or extend over public right-of-way.
  - F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
  - G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 925]

**165.28 RM – RESIDENTIAL MULTI-FAMILY DISTRICT.**

1. Intent. This district is intended to provide for a variety of multi-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Medium and high population density neighborhoods are recognized and provided for. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various multi-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RM District:
  - A. Single-family detached dwellings.
  - B. Two-family dwellings.
  - C. Multi-family dwellings.
  - D. Home occupations.
  - E. Family homes.
  - F. Elder homes.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RM District:
  - A. Private garages and storage sheds.
  - B. Parking lots.
  - C. The keeping or raising of pigs, fowl, sheep, goats, cattle or horses is prohibited. The raising and keeping of other animals is prohibited on a commercial basis.
  - D. Private Swimming Pools. Private swimming pools shall have a non-climbable fence which means a solid wall, chain link with squares maximum size of two and three-eighths inches, or other fence of similar rigidity with vertical spacing less than two inches and horizontal spacing less than four inches. All openings in any fence are to be small enough not to allow the passage of a four-inch diameter sphere. The fence must be at least six feet in height and be secured against public access. All enclosure gates or doors immediately opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. A temporary pool may have a freestanding fence that meets these standards. Pools in place for six months or more will need to have a permanent fence. All ladders or step apparatus used for access to any aboveground pool or temporary wading pool as defined in Section 165.06(61) shall be removed when the pool is not in actual use.
  - E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the RM District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:

- A. Preschools and child care centers.
- B. Public or private utility substations, relay stations, etc.
- C. Churches and publicly owned and operated buildings and facilities.
- D. Senior high schools, elementary and junior high schools and equivalent private and parochial schools.
- E. Lodging houses, dormitories, fraternities and sororities.
- F. Bed and breakfast houses.
- G. Health care facilities.
- H. Home occupations in accessory buildings.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RM District:

Zoning Symbol	Minimum Lot Area	Minimum Lot Area Per Unit	Maximum Units Per Acre	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
5 RME*	5,000 square feet	2,500 square feet	17	45 feet	20 feet	6 feet	20 feet	3 stories or 45 feet
5 RM	10,000 square feet	5,000 square feet	8	75 feet	25 feet	8 feet	30 feet	3 stories or 45 feet
3 RM	10,000 square feet	3,000 square feet	14	75 feet	25 feet	8 feet	30 feet	3 stories or 45 feet
*Applies to existing lots of record at the time of adoption of this chapter.								

6. Off-Street Parking. The following off-street parking requirements shall apply in the RM District:

- A. Single-family dwellings: two parking spaces on the lot.
- B. Multi-family dwellings: one parking space on the lot for each dwelling unit.
- C. Churches: one parking space within 400 feet of the lot for each five seats in the main auditorium.
- D. Elementary, junior high and equivalent private or parochial schools: one parking space for each classroom and office plus one parking space per each 300 square feet of gross floor area in auditorium or gymnasium.
- E. Senior high schools and equivalent private or parochial schools: one parking space for each employee and one parking space for each 10 students.
- F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one parking space for each employee and one parking space for each five students.
- G. Public buildings and facilities: one parking space for each 300 square feet of gross floor area or one parking space for each five seats in the main assembly area.
- H. Preschools and child care centers: one parking space per employee.

7. Off-Street Loading. The following off-street loading requirements shall apply in the RM District:
  - A. All activities or uses allowed in the RM District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
  - B. Loading shall not be permitted to block public right-of-way.
8. Signs. The following sign regulations shall apply to the RM District:
  - A. Off-premises signs, except real estate or political signs, are not permitted.
  - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
  - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - D. No sign may imitate or resemble an official traffic control sign, signal or device.
  - E. Signs shall not encroach or extend over public right-of-way.
  - F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
  - G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**165.30 MH – MOBILE HOME DISTRICT.**

1. Intent. This district is intended to provide for certain medium density residential areas in the City now developed as mobile home parks which by reason of their design and location are compatible with surrounding residential areas and areas of the City where similar development seems likely to occur. This district has useful application as a transition zone between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available.
2. Permitted Uses. The following uses are permitted in the MH District:
  - A. Mobile homes located in an approved mobile home park.
  - B. Home occupations.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the MH District:
  - A. Private garages and storage sheds.
  - B. The keeping or raising of pigs, fowl, sheep, goats, cattle or horses is prohibited. The raising and keeping of other animals is prohibited on a commercial basis.
  - C. Private recreational facilities.
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the MH District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
  - A. Public or private utility substations, relay stations, etc.
  - B. Preschools and child care centers.
  - C. Churches or accessory facilities on or off site.
  - D. Home occupations in accessory buildings.
5. Bulk Regulations. A mobile home park permit shall be required for construction of any mobile home park. Permits shall be issued by the Planning and Zoning Commission after plans have been submitted which conform to the following bulk requirements. Fees for said permit shall be established by Council resolution. Construction shall comply with the following:
  - A. The minimum mobile home park area shall be at least four acres.
  - B. Density is limited to eight mobile homes per acre.
  - C. No mobile home shall be located within five feet of any driveway or parking space, within 75 feet of the right-of-way line of a public street, or less than 35 feet from the side or rear lot lines of the mobile home park.
  - D. Each mobile home site shall be provided with a stand consisting of a reinforced, four-inch, poured Portland cement concrete apron not less than eight feet wide and 45 feet long.

E. A greenbelt, at least 25 feet in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways.

F. Each mobile home shall be located on a lot having an area of at least 5,000 square feet provided.

G. All minimum street widths in mobile home parks shall be approved as private streets and further comply with the following:

(1)	No parking on street	one-way	14 feet
		two-way	24 feet
(2)	Parallel parking on one side	one-way	18 feet
		two-way	27 feet
(3)	Parallel parking both sides	one-way	14 feet
		two-way	34 feet

H. An approved sanitary sewer and water system shall be provided.

6. Off-Street Loading. The following off-street loading requirements shall apply in the MH District:

A. All activities or uses allowed in the MH District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

7. Signs. The following sign regulations shall apply to the MH District:

A. Off-premises signs, except real estate or political signs, are not permitted.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal or device.

E. Signs shall not encroach or extend over public right-of-way.

F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.

G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 939]

**165.32 AC – ARTERIAL COMMERCIAL DISTRICT.**

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other non-residential uses which, because of certain location requirements and operational characteristics, are appropriately located in close proximity to arterial and other main thoroughfares. Residential-type structures are also permitted. The district is further characterized by a typical need for larger lot sizes, off-street parking, adequate setbacks, clear vision, safe ingress and egress, and access to other adjacent thoroughfares.
2. Permitted Uses. The following uses are permitted in the AC District:
  - A. Sales and display rooms and lots, including yards for the storage or display of new or used building materials but not for any scrap or salvage operation storage or sales.
  - B. Offices and clinics.
  - C. Churches and publicly owned and operated buildings and facilities.
  - D. Hotels and motels.
  - E. Any other retail or service sales business, including food preparation for sale off-premises.
  - F. Publicly owned and operated buildings and facilities.
  - G. Dwellings, single-family, two-family and multi-family.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the AC District:
  - A. Private recreational facilities.
  - B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
  - C. Private garages and storage sheds.
  - D. Parking lots.
  - E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the AC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
  - A. Public or private utility substations, relay stations, etc.
  - B. Warehouses.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and building in the AC District:

<b>1. Minimum Lot Area</b>	<b>1. Minimum Lot Width</b>	<b>1. Minimum Front Yard</b>	<b>1. Minimum Side Yard</b>	<b>1. Minimum Rear Yard</b>	<b>1. Maximum Height (lesser of)</b>
10,000 square feet	75 feet	50 feet	If adjacent to a residential district, the side yard shall be equal to the minimum side yard required in the adjacent district, but in no instance less than 6 feet.	If adjacent to a residential district, the rear yard shall be equal to the minimum rear yard required in the adjacent district, but in no instance less than 20 feet.	4 stories or 60 feet

6. **Off-Street Parking.** The following off-street parking requirements shall apply in the AC District:

- A. Sales and service building: one parking space per 300 square feet of gross floor area.
- B. Offices/clinics: one parking space per 300 square feet of gross floor area.
- C. Churches: one parking space within 400 feet of the lot for each five seats in the main auditorium.
- D. Public buildings and facilities: one parking space per 300 square feet of gross floor area or one parking space for each five seats in the main assembly area.
- E. Hotels and motels: one parking space per room plus one parking space for each employee.

7. **Off-Street Loading.** The following off-street loading requirements shall apply in the AC District:

- A. All activities or uses allowed in the AC District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. **Signs.** The following sign regulations shall apply to the AC District:

- A. Off-premises and on-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**165.34 BC – BUSINESS COMMERCIAL DISTRICT.**

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other non-residential uses, excluding industrial and agricultural uses.
2. Permitted Uses. The following uses are permitted in the BC District:
  - A. Business sales and services conducted entirely within the building, including incidental manufacturing or processing of goods or products.
  - B. Offices and clinics.
  - C. Publicly owned and operated buildings and facilities.
  - D. Multi-family dwellings, provided, however, that no multi-family dwellings will be permitted in the BC District if they contain ground floor residential units which face Walnut Street, Locust Street, Elm Street, Howard Street or Front Street. Other multi-family dwellings which contain first floor units will only be permitted uses in the BC District if the first floor units are located in the rear portion of a building containing an additional permitted use in the BC District and do not occupy more than 50 percent of the ground level. Access to ground level apartments shall not be through doors facing or fronting Walnut Street, Locust Street, Elm Street, Howard Street, or Front Street.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the BC District:
  - A. Private recreational facilities.
  - B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
  - C. Private garages.
  - D. Parking lots.
  - E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the BC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
  - A. Public or private utility substations, relay stations, etc.
  - B. Warehouses.
  - C. Churches or accessory facilities on or off site.
  - D. Hotels and motels.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the BC District:

1. Minimum Lot Area	1. Minimum Lot Width	1. Minimum Front Yard	1. Minimum Side* Yard	1. Minimum Rear* Yard	1. Maximum Height (lesser of)
None	None	None, except 20 feet where provided	None, except if a side yard is provided, it shall be a minimum of 6 feet	None, except if a rear yard is provided, it shall be a minimum of 20 feet	4 stories or 60 feet
*Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.					

6. Off-Street Parking. The following off-street parking requirements shall apply in the BC District:

- A. Sales and service buildings: one parking space per 300 square feet of gross floor area.
- B. Offices/clinics: one parking space per 300 square feet of gross floor area.
- C. Churches: one parking space within 400 feet of the lot for each five seats in the main auditorium.
- D. Public buildings and facilities: one parking space per 300 square feet of gross floor area or one parking space for each five seats in the main assembly area.
- E. Hotels and motels: one parking space per room plus one parking space for each employee.
- F. Dwellings: two spaces per unit.

7. Off-Street Loading. The following off-street loading requirements shall apply in the BC District:

- A. All activities or uses allowed in the BC District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the BC District:

- A. Off-premises and on-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way except by special exception of the Board of Adjustment.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**165.36 LI – LIGHT INDUSTRIAL DISTRICT.**

1. Intent. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance or other similar factors. All industrial operations must be in an enclosed building. No residential uses are permitted in this district.
2. Permitted Uses. The following uses are permitted in the LI District:
  - A. Any nonresidential building or use which would not be hazardous, obnoxious, offensive or unsightly by reason of odor, sound, vibrations, radioactivity, electrical interference, glares, liquid or solid waste, smoke, or other air pollutants.
  - B. Storage, manufacture, compounding, processing, packing and/or treatment of products, exclusive of the rendering or refining of fats and/or oils.
  - C. Manufacture, compounding, assembly and/or treatment of articles or merchandise derived from previously prepared materials.
  - D. Assembly of appliances and equipment, including manufacture of small parts.
  - E. Wholesale distribution of all standard types of prepared or packaged merchandise.
  - F. Sale and storage of building materials. Outdoor or open storage shall be allowed.
  - G. Contractors' offices and storage of equipment.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the LI District:
  - A. Accessory buildings and uses customarily incidental to a permitted use.
  - B. Living quarters for watchmen or custodians of industrial properties.
4. Special Exceptions. No special exceptions are allowed at the current time.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the LI District:

1. Minimum Lot Area	1. Minimum Lot Width	1. Minimum Front Yard	1. Minimum Side* Yard	1. Minimum Rear* Yard	1. Maximum Height (lesser of)
10,000 square feet	75 feet	50 feet	None, except if adjacent to an RS or RM District, then it shall be 50 feet	None, except if adjacent to an RS or RM District, then it shall be 50 feet	4 stories or 60 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the LI District:
  - A. All commercial uses shall provide one parking space on the lot for each 300 square feet of floor area.
  - B. All industrial uses shall provide one parking space on the lot for each two employees of maximum number employed at any one time.
7. Off-Street Loading. The following off-street loading requirements shall apply in the LI District:
  - A. All activities or uses allowed in the LI District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.
  - B. Loading shall not be permitted to block public right-of-way.
8. Signs. The following sign regulations shall apply to the LI District:
  - A. Off-premises signs are permitted.
  - B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.
  - C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
  - D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - E. No sign may imitate or resemble an official traffic control sign, signal or device.
  - F. Signs shall not encroach or extend over public right-of-way.
  - G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
  - H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**165.38 AX – ADULT USE DISTRICT.**

1. Intent. Adult uses in business districts, commercial districts, arterial commercial districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both the business and the residential segments of the neighborhood. The establishment of more than two adult uses within 1,000 feet of each other compounds this deleterious effect. Control of the location of adult uses is needed to allow an acceptable level of such uses while maintaining neighborhoods which meet the expectations of the general public.

2. Definitions. The following terms are defined for use in the section.

A. “Adult use” includes but is not limited to the following:

(1) “Adult bookstore” means an establishment having, as the primary portion of its stock in trade, books, magazines and other periodicals which are substantially devoted to the depiction of specified sexual activities and specified anatomical areas.

(2) “Adult business” means any business or establishment where a specified sexual activity or specified anatomical area is displayed.

(3) “Adult motel” means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(4) “Adult movie theater” means any theater, arcade or similar establishment where an enclosed building or open air facility is used for presenting material in the form of motion picture film, video tape or other similar means which is substantially devoted to the depiction of specified sexual activities and specified anatomical areas, for observation by persons therein.

(5) “Adult news rack” means any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities and specified anatomical areas.

(6) “Adult nightclub” means any club, cabaret, nightclub, bar, restaurant or similar establishment where an enclosed building or open air facility is used for live performances which are characterized by the exposure of specified sexual activities and specified anatomical areas, for observation by persons therein.

B. “Specified anatomical area” means less than completely and opaquely covered human genitalia, mature human buttocks; and a mature human female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state — even if completely and opaquely covered.

C. “Specified sexual activities” means patently offensive acts, exhibitions, representations, depictions or descriptions of:

(1) Human genitals in a state of sexual stimulation or arousal;

- (2) Acts of human masturbation, sexual intercourse or sodomy;
  - (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; and
  - (4) Minors engaged in a prohibited sexual act or simulation of a prohibited sexual act.
- 3. Permitted Uses. The following uses are permitted in the AX District:
  - A. Adult uses.
- 4. Bulk Regulations. The following minimum requirements shall be observed in the AX District:
  - A. An adult use shall not be located within 1,000 feet of another adult use, nor shall they be located within 1,000 feet of any public or parochial school, licensed day care facility, church, public park, residential district, or any dwelling (one-family, two-family or multiple dwelling).
  - B. The 1,000 foot restrictions shall be computed by measurement from the residential zone or from the nearest property line of the land used for another adult use or any public or parochial school, licensed day care facility, church, public park, residential district, or any dwelling to the nearest entrance of the building in which adult uses are to occur, using a route of direct measured horizontal distance.
  - C. All building openings, entries, windows, etc., shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, walkways, or from other public, or semi-public areas.
  - D. In addition, the bulk regulations of the AC District also apply to the AX District.

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**SUPPLEMENTARY DISTRICT REGULATIONS****165.40 SUPPLEMENTARY DISTRICT REGULATIONS.**

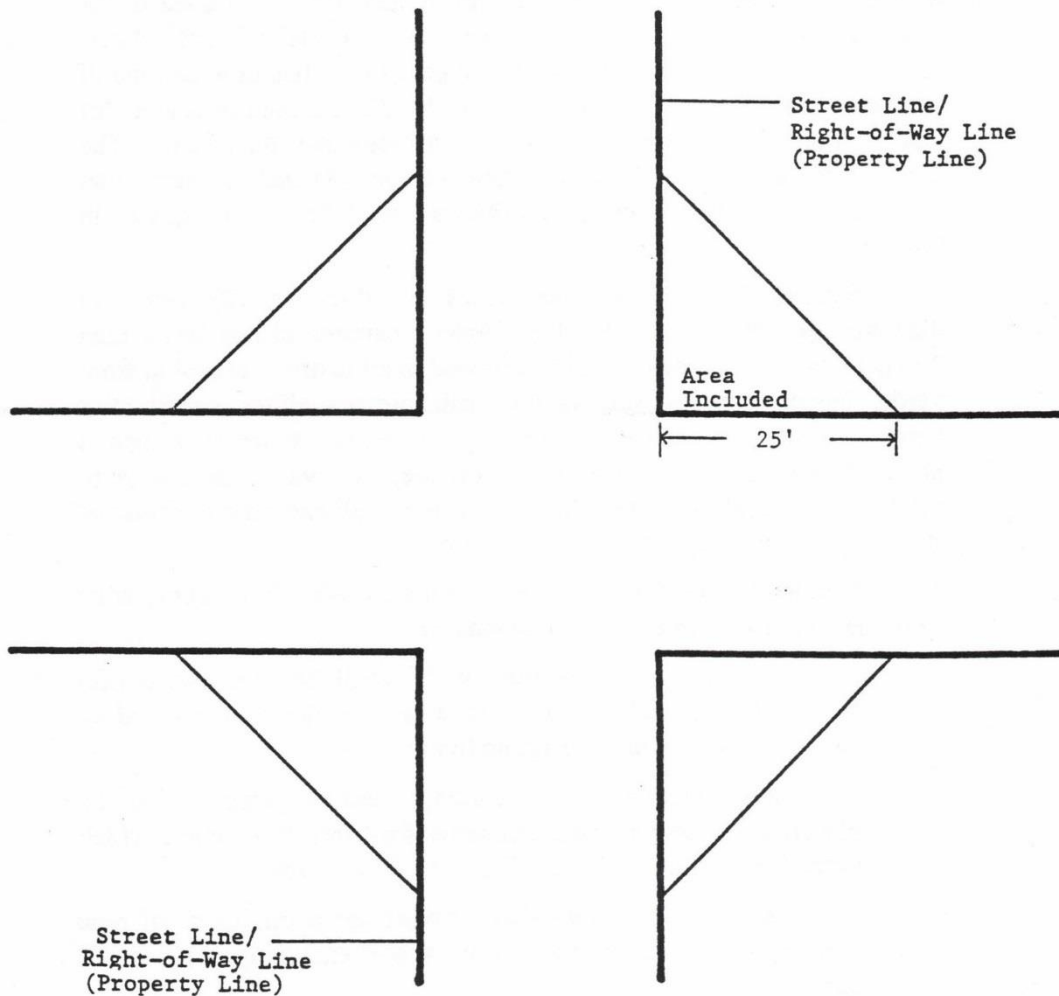
1. Building Lines on Approved Plats. Where, on the effective date of this chapter in any RS, RM and AC District, 40 percent or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:
  - A. Where the building furthest from the street provides a front yard not more than 10 feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
  - B. Where Paragraph A is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.
  - C. Where neither Paragraph A nor B is the case and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.
2. Structures to Have Access. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
3. Erection of More Than One Principal Structure on a Lot. In any district, more than one structure, housing a permitted or permissible principal use, may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
4. Accessory Buildings. The following restrictions apply to the location and use of accessory buildings:
  - A. No accessory building may be erected in any required front yard, and no separate accessory building may be erected within 10 feet of a main building.
  - B. No accessory building in a residential district shall be closer than five feet to any other lot line as measured from building foundation, nor shall any accessory building have side walls greater than 10 feet in height.
  - C. Accessory buildings located in the rear yard may not occupy more than 35 percent of the rear yard, except by special exception of the Board of Adjustment.
  - D. No accessory building shall be used without occupancy of the principal building.
  - E. No more than two accessory building may be placed on a lot.
5. Fences. No fence or hedge more than 30 percent solid or more than three feet high may be located within 25 feet of a street intersection. Fences or hedges less than four feet high may be located on any remaining part of a lot. Fences or hedges less than six feet high may be erected on those parts of a lot that are as far back or further back from a street than the main building. Higher fences may be allowed by special exception only.

6. Height Limits. Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tank, water towers, or necessary mechanical appurtenances are exempt from height regulations in Sections 165.22 through 165.36.
7. Projections. Sills, belt courses, cornices, and ornamental features may project only two feet into a required yard.
8. Fire Exits and Chimneys. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half feet when so placed as not to obstruct light and ventilation, may be permitted by the Zoning Administrator.
9. Porches. Open, unenclosed porches may extend 10 feet into a front yard.
10. Terraces. Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distant at least two feet from the adjacent side lot line.
11. Service Lines. Nothing in this chapter shall have the effect of prohibiting utility service lines.
12. Yards and Visibility. On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of three and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of the intersection. (See diagram on following page.)
13. Parking Spaces. All areas for the parking of motor vehicles within public or private areas and in either commercial or residential districts, shall be a created surface of brick, stone, concrete or asphalt.
14. Sidewalks. Sidewalks, when required, shall be constructed, repaired, or replaced in accordance with the standards contained in the Sidewalk Regulations chapter of the City's Code of Ordinances. Sidewalks shall be a minimum of 48 inches in width and of concrete material, except by variance of the Zoning Administrator, for that portion which crosses driveways of alternate materials. The concrete thickness shall be a minimum of four inches except that sidewalks within the apron of a driveway shall be six inches in thickness.
15. Satellite Dishes. Satellite dishes less than two meters in diameter are not regulated by this chapter. Satellite dishes larger than two meters in diameter shall be allowed in all districts except in front yards. The placement of such satellite dish antennas, either permanent or temporary, shall be treated as accessory structures. When such dish is attached to a main building or other structure, the owner must adhere to the Uniform Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.
16. Residential Dwelling Standards. All single-family dwelling units shall meet the following minimum standards:
  - A. The minimum dwelling width shall be 22 feet, on two contiguous sides, at the exterior dimension at its narrowest point with year-round living space.
  - B. All dwelling units, including attached garages, shall be placed on a permanent continuous frost-free foundation which extends a minimum of four inches above grade.

- C. All dwelling units shall provide for a minimum of 900 square feet of floor space, excluding porches and garages.

### **DIAGRAM**

#### **Corner Lots - Yards and Visibility**



17. Residential Dwelling Standards for Lots Less than 50 Feet Wide. All single-family dwelling units shall meet the following minimum standards:

- A. The minimum dwelling width shall be 20 feet, on two contiguous sides, at the exterior dimension at its narrowest point with year-round living space.
- B. All dwelling units, including attached garages, shall be placed on a permanent continuous frost-free foundation which extends a minimum of four inches above grade.

C. All dwelling units shall provide for a minimum of 760 square feet of floor space, excluding porches and garages.

D. All single-family dwelling units that fall under these standards must be approved by the Planning and Zoning Commission before construction starts.

Residential dwellings that meet the minimum dwelling width of 20 feet, on two contiguous sides, at the exterior dimension at its narrowest point with year-round living space of two or more units on a lot which meets all bulk regulations in the area of zoning, and each unit must provide for a minimum of 760 square feet of floor space, excluding porches and garages must be approved by the Planning and Zoning Commission and the City Council before construction starts.

18. Private Swimming Pools. Private swimming pools shall have a non-climbable fence which means a solid wall, chain link with squares maximum size of two and three-eighths inches, or other fence of similar rigidity with vertical spacing less than two inches and horizontal spacing less than four inches. All openings in any fence are to be small enough not to allow the passage of a four-inch diameter sphere. The fence must be at least six feet in height and be secured against public access. All enclosure gates or doors immediately opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. A temporary pool may have a freestanding fence that meets these standards. Pools in place for six months or more will need to have a permanent fence. All ladders or step apparatus used for access to any aboveground pool or temporary wading pool as defined in Section 165.06(61) shall be removed when the pool is not in actual use.

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**ADMINISTRATION**

**165.50 ADMINISTRATION AND ENFORCEMENT.** A Zoning Administrator designated by the City Council shall administer and enforce this chapter. The Administrator may be provided with the assistance of such other persons as the City Council may direct.

**165.51 ZONING/BUILDING PERMIT REQUIRED.** No building or structure shall be erected, constructed, enlarged, moved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the Zoning Administrator. The owner of the property must apply for the zoning/building permit. No zoning/building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Fees for zoning/building permits shall be as provided by City Council resolution. Zoning/building permits shall be applied for with the City Clerk and shall be approved by the Zoning Administrator and shall expire two years after the date of issuance if work is begun within one year of issuance or after one year if no substantial beginning of construction has occurred. Extensions of time may be granted in writing by the Zoning Administrator for good cause.

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**BOARD OF ADJUSTMENT****165.60 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.**

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling of real estate.
2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in the Chairperson's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall, through its Secretary, keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions of the Board concerning special exceptions or variances shall also be recorded in the office of the County Recorder. It shall be the responsibility of the appellant to record said action and all corresponding stipulations and further said action shall take effect upon the Board receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the Zoning Administrator.

**165.61 BOARD OF ADJUSTMENT; POWERS AND DUTIES.** The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter.
  - A. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City of Colfax affected by any decision of the Zoning Administrator. Such appeal shall be taken within 60 days by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
  - B. The Board shall fix a reasonable time for the hearing of the appeal, and give not less than seven days or more than 20 days public notice. At said hearing, any party may appear in person, by agent or by attorney.
  - C. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal is filed with the Administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a

court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions: Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than seven days or more than 20 days public notice. At said hearing, any party may appear in person, by agent or by attorney.

C. The public hearing shall be held. Any party may appear in person, by agent or by attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception that the granting of the special exception will not adversely affect the public interest.

3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating that:

(1) Special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) The special conditions and circumstances do not result from the actions of the applicant.

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts may be considered grounds for the issuance of a variance.

B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than seven days or more than 20 days' public notice. At said hearing, any party may appear in person, by agent or by attorney.

C. The public hearing shall be held. Any party may appear in person, by agent or by attorney.

D. The Board of Adjustment shall make findings that requirements of Section 165.61(3)(A) have been met by the applicant for a variance.

E. The Board of Adjustment 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.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. 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 chapter and punishable under this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

4. Approved Action by Board. The concurring vote of a majority of all members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

**165.62 APPEALS FROM THE BOARD OF ADJUSTMENT.** Any person or persons, or any taxpayer, department, board or bureau of the City, or other areas subject to this chapter aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, *Code of Iowa*.

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## ENFORCEMENT AND AMENDMENTS

**165.70 ENFORCEMENT AND INTERPRETATION.** All questions of interpretation and enforcement shall be first presented to the Zoning Administrator, or that person's assistant, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, *Code of Iowa*.

**165.71 AMENDMENTS.** The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than 20 days prior to the hearing. Notwithstanding Section 414.2, *Code of Iowa*, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of 20 percent or more of the area of the lots included in the proposed change or repeal, or by the owners of 20 percent or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least four-fifths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of four-fifths of the members of the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

**165.72 PENALTIES FOR VIOLATION.** Violation of the provisions of this chapter with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a violation of this Code of Ordinances. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

**165.73 SCHEDULE OF FEES, CHARGES, AND EXPENSES.** The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning Administrator and the City Clerk and may be altered or amended only by the City Council, as recommended by the Zoning Administrator.

**165.74 COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

EDITOR'S NOTE			
The following ordinances have been adopted amending the Official Zoning Map of the City, adopted by Ordinance No. 424 on April 10, 2000, and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
447	October 8, 2001		
480	August 11, 2003		
505	May 21, 2007		
518	March 10, 2008		
557	June 14, 2010		
615	August 8, 2016		
649	May 10, 2021		
650	May 10, 2021		

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## CHAPTER 170

# SUBDIVISION REGULATIONS

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**170.01 PURPOSE.** It is deemed essential to establish minimum standards for the design and development of all new subdivisions so that existing developments will be protected and so that adequate provisions are made for public utilities and other public requirements and to improve the health, safety and general welfare in the City.

**170.02 JURISDICTION.** In accordance with the provisions of Section 354.9 of the *Code of Iowa*, and all amendatory acts thereto, these regulations are adopted by the City governing the subdivision of all lands within the corporate limits of the City and governing subdivision of all lands within two miles of the corporate limits.

**170.03 DEFINITIONS.** For the purpose of this chapter, certain terms and words are herein defined:

1. “Access street” means a street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic.
2. “Block” means an area of land within a subdivision that is entirely bounded by streets, highways, or ways, except alleys; or by streets, highways or ways, except alleys and the exterior boundary or boundaries of the subdivision.
3. “Building lines” shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by regulations. Such building lines shall not be less than required by the zoning regulations. Where the subdivided area is not under zoning control, the Commission shall require building lines in accordance with the needs of each addition.
4. “City Engineer” means the City Engineer or an engineering firm appointed by the Council to act as a City Engineer.
5. “Collector streets” means those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such development.
6. “Commission” means the Planning and Zoning Commission of the City.
7. “Cul-de-sac” means a short, minor street, having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

8. "Easement" means a grant by the property owner of the use for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner of the fee shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.
9. "Engineer" means a registered engineer authorized to practice civil engineering, as defined by the Registration Act of the State of Iowa.
10. "Half street" means a one-half width street right-of-way on the boundary of a subdivision dedicated by the subdivider to the City, for future development when another subdivision is platted along the side of the half street. Half streets are not permitted
11. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.
12. "Major thoroughfare" means a street used primarily for fast, large-volume traffic.
13. "Minor street" means a street used primarily for access to the abutting properties.
14. "Performance bond" means a surety bond or cash deposit made to the City in an amount equal to the full cost of the improvements which are required by this chapter, such cost being estimated by the City Engineer, and the surety bond or cash deposit being legally sufficient to secure to the City that the improvements will be constructed in accordance with this chapter.
15. "Plat" means a map, drawing or chart on which the subdivider's plan of the subdivision is presented and which the subdivider submits for approval and intends to record in final form.
16. "Right-of-way" means the area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.
17. "Roadway" means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.
18. "Subdivision" means the division of land into three or more lots for the purpose, whether immediate or future, of transfer of ownership or building development; or any change in existing street lines or public easement. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or if a new street is involved, any division of land.
19. "Surveyor" means a registered surveyor authorized to practice surveying, as defined by the Registration Act of the State of Iowa.

**170.04 PRELIMINARY PLAT PROCEDURE.** In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat in accordance with the following order and procedure:

1. The subdivider shall first prepare and file with the Clerk six copies of the preliminary plat conforming in detail to the requirements set forth herein. Eight copies of the preliminary plat shall be submitted for subdivisions outside the corporate limits of the City.
2. The City shall forthwith refer two copies to the City Engineer and two copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer two copies of the preliminary plat to the County Board of Supervisors and keep the County Engineer advised of the status of the plat and actions taken thereon.
3. The City Engineer shall carefully examine the plat as to its compliance with the regulations of the City, the existing street system, and good engineering practices and shall, as soon as possible, submit findings in duplicate to the Commission.
4. After receiving the City Engineer's report, the Commission shall study the preliminary plat and other material for conformity to this chapter. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The Commission shall approve or reject such plan within 45 days after the date of submission thereof to the Commission. If the Commission does not act within 45 days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed 60 days. The approval of the preliminary plat by the Commission shall be null and void unless the final plat is presented to the Commission within 180 days after date of approval.
5. Before approving a preliminary plat, the Commission may, at its discretion, hold a public hearing on the proposed plat, notice of which shall be given by publication in a local newspaper of general distribution, or by posting notices on the tract, or by sending notices to affected property owners by mail. Such notices shall be given at least seven days prior to the public hearing.
6. Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat, together with any detailed construction drawings and specifications for the improvements required under this chapter.

**170.05 FINAL PLAT PROCEDURE.** In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a final plat in accordance with the following order and procedure:

1. Before submitting the final plat to the Commission for approval, the subdivider shall furnish all plans and information as listed in Section 170.08 of this chapter necessary for the detailed engineering consideration of the improvements required under this chapter and obtain approval of the City Engineer which shall be endorsed thereon.
2. The final plat shall be filed in duplicate together with a certificate from the City Engineer that the final plat is substantially in accord with the preliminary plat as approved by the Commission.
3. The Commission shall then consider the final plat and shall submit its recommendation to the Council, together with a certified copy of the resolution showing action of the Commission.
4. The Council shall then consider the plat and if the same is acceptable and in accordance with this chapter, the Council may accept the same. If said plat is

disapproved by the Council, such disapproval shall point out in writing wherein said proposed plat is objectionable.

5. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder as provided in Chapter 354 of the *Code of Iowa*, and amendatory acts thereto, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

**170.06 PLATS OUTSIDE CORPORATE LIMITS.** Procedure for approval of preliminary and final plats of land within two miles of the corporate limits shall be the same as set out in Section 170.04 and 170.05 above, except that eight copies of the plat shall be filed with the Clerk and the Clerk shall refer one copy to the County Engineer and one copy to the County Planning and Zoning Commission and request their recommendations to be submitted to the Commission. The Commission shall have 45 days to submit a recommendation to the Council and shall not take action on the plat prior to receiving the recommendations of the County, provided that the County shall submit its recommendations within 30 days after the referrals of the plat to the County Engineer and the County Planning and Zoning Commission.

**170.07 PRELIMINARY PLAT DATA.** The preliminary plat of a subdivision is not intended to serve as a record plat. Its purpose is to show on a map all facts needed to enable the Commission to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. The subdivider or a representative may call at the City offices in advance of submitting the preliminary plat in order to discuss the proposed subdivision and in order to obtain information as to the requirements necessary for approval of the plat.

1. Number of Copies Required. The required number of copies of the preliminary plat shall be submitted as prescribed for review. The scale of the map shall be 50 feet to one inch, provided that if the resulting drawing would be over 36 inches in shortest dimension, a scale of 100 feet to one inch may be used, unless otherwise approved by the Commission.
2. Contents of Preliminary Plat. The preliminary plat shall contain the following:
  - A. Name of subdivision, date, point of compass, scale, and official description of the property being platted.
  - B. Name and address of recorded owner and of developer.
  - C. Name and address of engineer and/or land surveyor.
  - D. Existing buildings, railroads, underground utilities and other rights-of-way.
  - E. Location, names and widths of all existing and proposed roads, alleys, streets and highways in or adjoining the area being subdivided.
  - F. Location and names of adjoining subdivisions, and the names of the owners of adjoining subdivisions, and the names of the owners of adjoining acreage parcels.
  - G. Proposed lot lines with approximate dimensions and the square foot area of non-rectangular lots.
  - H. Areas dedicated for public use, such as schools, parks and playgrounds.

- I. Contour lines at intervals of not more than five feet.
  - J. Building setback lines.
  - K. Boundaries of the proposed subdivision shall be indicated by a heavy line.
  - L. Zoning classification of the area.
  - M. Proposed utility service, including location and size or capacity:
    - (1) Source of water supply.
    - (2) Provision for sewage disposal.
    - (3) Provision for storm water drainage, including proposed storm sewers, ditches, culverts, bridges and other structures.
  - N. A vicinity sketch at a legible scale showing the relationship of the plat to its general surroundings.
  - O. Lot numbers.
  - P. A cross-section of the proposed streets showing the roadway location, type and width of surfacing, the type of drainage and other improvements to be installed.
3. Accompanying Material. The following shall accompany each plat:
- A. An attorney's opinion in duplicate showing that the fee title to the subdivision land is in the owner's name as shown on the plat and showing any encumbrances that may exist against said land.
  - B. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the City Engineer.
  - C. Restrictions proposed, if any, to be included in the owner's dedication of the plat.
  - D. Written statement by the appropriate officials of the availability of gas and electricity to the proposed subdivision.
  - E. Written and signed statement explaining how and when the subdivider proposes to provide and install all required improvements required by this chapter. Such statement shall acknowledge required inspections and approvals by the City Engineer.

**170.08 FINAL PLAT DATA.** The final plat may include all or part of the preliminary plat.

- 1. Number of Copies and Scale. When and if the preliminary plat is approved, the subdivider shall submit six copies of the final plat for review by the Commission. The scale of the map shall be 50 feet to one inch, providing that if the resulting drawing would be over 36 inches in shortest dimension a scale of 100 feet to one inch may be used.
- 2. Contents of Final Plat. The final plat shall contain the following:
  - A. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot in 3,000 feet.

- B. Accurate references to known or permanent monuments, giving the bearing and distance from some corner of a congressional division of the County.
  - C. Accurate location of all existing and recorded streets intersecting the boundaries of the tract.
  - D. Accurate metes and bound description of the boundary.
  - E. Street names.
  - F. Complete curve notes for all curves included in the plat.
  - G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines.
  - H. Lot numbers and dimensions.
  - I. Accurate locations and descriptions of easements for utilities and any limitations on such easements.
  - J. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
  - K. Building lines and dimensions.
  - L. Location, type, material and sizes of all monuments or markers.
  - M. Name of the subdivision.
  - N. Name and address of owner and subdivider.
  - O. North point, scale and date.
  - P. Certification by a registered land surveyor of the State of Iowa.
3. Accompanying Material. The following material shall accompany the final plat:
- A. Plans and profiles of all streets and alleys at a 50-foot horizontal scale and five-foot vertical scale. Profiles shall show location, size and grade of all conduits, sewers, pipelines, etc., to be placed under the streets and alleys. Profiles of east and west streets shall be drawn so that the west end of the profile shall be at the left side of the drawing. Profiles of north and south streets shall be drawn so that the south end of the profile shall be at the left side of the drawing.
  - B. Any protective covenants or restrictions to be imposed upon the plat shall be submitted for approval.
  - C. A dedication to the City, properly executed, for all streets intended as public streets, and for any other property intended for public use, except for areas outside the corporate limits.
  - D. The following documents:
    - (1) A certificate by the owner and spouse, if any, that the subdivision is with their 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 acknowledgments of deeds.

- (2) Performance bond, if any.
- (3) A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
- (4) An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.
- (5) A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.
- (6) A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
- (7) A statement by the Auditor approving the name or title on the subdivision plat.  
(*Code of Iowa, Sec. 354.11[1e]*)

E. Drainage plans for the positive removal of storm water.

**170.09 SUBDIVISION DESIGN STANDARDS.** The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of a plat, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

**170.10 STREET DESIGN STANDARDS.** Street design standards are as follows:

1. Comprehensive Plan. All proposed plats and subdivisions shall conform to the comprehensive plan. All proposed plats and subdivisions shall also conform to additional proposed street plans as set out by the City.
2. Continuation of Existing Streets or Planned Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) or any streets which are part of an approved preliminary subdivision plan, in adjoining property, at equal or greater width, but not less than 50 feet in width, and in similar alignment, unless variations are recommended by the Commission.
3. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead ended, an interim turnaround may be required.

4. **Street Intersections.** Street intersections shall be as nearly at right angles as possible.
5. **Cul-de-sac.** Whenever a cul-de-sac is permitted, such street shall be no longer than 600 feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least 130 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be a minimum of 50 feet. The property lines at the intersection of the turnaround and the lead-in portion of the street shall be rounded at a radius of not less than 150 feet; or equal straight approach lines. A turnaround diameter greater than 130 feet may be required by the Commission in the case of commercial or industrial subdivisions if it is deemed necessary.
6. **Street Names.** All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.
7. **Physical and Cultural Features.** In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment.
8. **Half Streets.** Dedication of half streets will not be permitted. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half may be platted if deemed necessary by the Commission.
9. **Alleys.** Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.
10. **Neighborhood Plan.** If any overall plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.
11. **Land Not Platted.** Where the plat to be submitted includes only part of the tract owned by the subdivider, the Commission may require topography and a sketch of a tentative future street system of the unsubdivided portion.
12. **Major Thoroughfares.** Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy trafficway, the street layout shall provide motor access to such frontage by one of the following means:
  - A. A parallel street, supplying frontage for lots backing onto the trafficway;
  - B. A series of cul-de-sacs or short loops entered from and planned at right angles to such a parallel street, with their terminal lots backing onto the highway;
  - C. An access drive separated by a planting strip from the highway to which a motor access from the drive is provided at points suitably spaced;
  - D. A service drive or alley at the rear of the lots.

Where any one of the above mentioned arrangements is used, deed covenants or other means should prevent any private residential driveways from having direct access to the trafficway.

13. Dedication. A dedication to the City shall be given for all streets before the same will be accepted for City maintenance.

14. Railroads. If a railroad is involved, the subdivision plat should:

- A. Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad.
- B. Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to go back onto the railroad; or form a buffer strip for park, commercial or industrial use.
- C. Provide cul-de-sacs at right angles to the railroad so as to permit lots to back onto them.

15. Street Grades. Streets and alleys shall be completed to grades which have been officially determined or approved by the City Engineer. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent for main and secondary thoroughfares, or 10 percent for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length in feet equivalent to 20 times the algebraic difference between the rates of grades, or greater, if deemed necessary to the City Engineer; for minor streets, 15 times. The grade alignment and resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the City Engineer.

16. Street Rights-of-Way and Widths. Minimum rights-of-way shall be provided as follows:

- A. Thoroughfares – 80 feet;
- B. Collector streets – 80 feet;
- C. Residential or Minor Streets – 60 feet;
- D. Cul-de-sacs – 130 feet in diameter;
- E. Alleys – 20 feet.

Streets shall have a width and cross-section as shown in the comprehensive plan for the type of street involved.

17. Other Considerations.

- A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
- B. Street jogs of less than 150 feet shall be avoided.
- C. No dead-end streets or alleys will be permitted except at subdivision boundaries.
- D. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof, unless a terminal point within the subdivision is shown in the master street plan.
- E. Intersection of more than two streets at a point shall not be permitted.

**170.11 DESIGN STANDARDS FOR EASEMENTS.** The design standards for easements shall be as follows:

1. Easements not less than five feet in width shall be provided along each side of the rear lot lines of all lots, and along such other lot lines as may be required by public and private utility companies.
2. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses or high voltage lines and shall be provided as determined by the utility or Council.
3. Utility easements shall convey to the City, its successors and assignees the perpetual right within the areas shown on the plat and described in the easement to construct, reconstruct, operate and maintain electric lines consisting of poles, wires, cables, conduits, fixtures, anchors and other similar equipment, including the right to trim or remove trees within such areas where necessary to secure a clearance of four feet from the wires or poles, together with the right to extend to any telephone, telegraph, electric or power company the right to use separately or jointly with the City the area included in the easement for the purposes above enumerated.
4. Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provision for widening the channel so that it will properly carry the surface water and shall provide and dedicate to the City an easement along each side of the stream, which easement shall be for the purpose of widening, improving or protecting the stream and for the purpose of installation of public utilities. The waterway easement shall be adequate to provide for these purposes and said easement shall be a minimum of 20 feet on each side plus stream design width and a total width adequate to provide any necessary channel straightening or relocation.

**170.12 DESIGN STANDARDS FOR BLOCKS.** The design of blocks shall conform to the following:

1. No block shall be longer than 1,320 feet and not less than 500 feet.
2. At street intersections, block corners shall be rounded with a radius of not less than 20 feet; unless at any one intersection a curve radius has been previously established, then such radius shall be used as standard.
3. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out of the way travel. If required, they shall be constructed by the developer. Right-of-way for crosswalks shall not be less than 30 feet, or more than 45 feet.

**170.13 DESIGN STANDARDS FOR LOTS.** The design of lots shall conform to the following:

1. Corner lots shall not be less than 20 feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets.
2. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway or except in the case of large commercial or industrial lots.

3. Each lot shall be provided with not less than 20 feet of access frontage to a public street.
4. Each lot shall be provided by means of a public street with satisfactory access to an existing public street.
5. No lot shall be less in size or shape than that required to provide an adequate building site in compliance with the Zoning Ordinance.
6. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed:
  - A. Lots which cannot be reasonably served by an existing public sanitary sewer system and public water mains shall have a minimum width of 100 feet, measured at the building line, and an area of not less than 20,000 square feet, or the minimum permitted by the Zoning Ordinance, whichever is larger.
  - B. Lots which are not within a reasonable distance of a public sanitary sewer system but are connected to a public water supply main shall have a minimum width of 80 feet and an area of 10,000 square feet or the minimum permitted by the Zoning Ordinance, whichever is larger.
7. Side lot lines where possible shall be at right angles or radial to the street lines.

**170.14 MONUMENTS.** Monuments shall be placed at block corners, point of curves, change in direction along lot lines and at each lot corner in accordance with City specifications.

**170.15 IMPROVEMENTS.** Improvements shall be provided as follows:

1. The subdivider shall be responsible for the installation and/or construction of all improvements required by this chapter and shall warrant the design, material and workmanship of such improvements, installation and/or construction for a period of two years from and after completion. Such warrant shall be by bond or other acceptable collateral, shall be subject to review by the City Attorney, shall specifically assure the expedient repair or replacement of defective improvements under warranty and shall indemnify the City from any and all costs or losses resulting from, contributed to, etc., such defective improvements.
2. Before the Council approves the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of the resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other requirements and agreements between the subdivider and the City.
3. This requirement may be waived if the subdivider will post a performance bond or certified check with the City guaranteeing that said improvements will be constructed within a period of two years from final acceptance of the plat; however, if a performance bond is posted, 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 by the City.
4. If a performance bond is posted, such bond shall be subject to review by the City Attorney prior to acceptance, shall specifically assure the expedient installation and completion of all improvements within the specified construction time periods and shall indemnify the City from any and all costs or losses of the development and construction.

5. The Council may waive the requirements of this chapter for the construction and installation of some or all of the improvements in cases of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

**170.16 RESUBDIVISIONS.** The Council may waive the requirements for the construction and installation of some or all of the foregoing improvements in cases of resubdivisions where only the size, shape and arrangement of the lots are being changed and no new streets are required and in case of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

**170.17 REQUIRED IMPROVEMENTS.** All plans, specifications, installation and construction required by this chapter shall be subject to the review, approval and inspection by the City Engineer or other authorized City representative. The subdivider shall furnish the City Engineer with a construction schedule prior to commencement of any and/or all construction and shall notify the City Engineer not less than 24 hours in advance of readiness for required inspections.

1. Grading. The subdivider shall at his or her expense bring all streets and alleys within the platted area which are being dedicated for public use to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
2. Sanitary Sewers. The subdivider shall at his or her expense provide the subdivision with a complete sanitary sewer system including all necessary pumping stations, force mains, pumping equipment and other appurtenances, which shall connect with a sanitary sewer outlet or treatment facility approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property. Where sewers in excess of eight inches in diameter are required, the additional cost shall be borne by the City.
3. Storm Drains. The subdivider shall at his or her expense provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes and manholes to provide the collection and removal of all surface waters. These improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties. Where oversized storm sewers or drainage structures are required to serve other areas of the watershed, the additional cost shall be borne by the City or assessed on an area basis to the properties served.
4. Water. The subdivider shall at his or her expense provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall be extended into and through the subdivision to the boundary lines, and which shall provide a water connection for each lot, and shall be connected to the City water system. Fire hydrants shall be uniform throughout the subdivision and shall meet the standards and design approved by the Council. Where water mains in excess of six inches are required, the additional cost shall be borne by the City.
5. Sidewalks. The subdivider may be required by the Council to provide, at his or her expense, five feet wide concrete sidewalk along each lot frontage. Such walk need not be constructed until completion of site grading and construction on the lot, but shall be constructed prior to the occupancy of the structure. On subdivisions platted after March 1, 2020, the developer may choose to put sidewalk on one side of the street only provided that the path is six feet wide and is six inch thick with rebar. All

sidewalks as a part of driveways must be six inches thick. If the developer chooses the one side of the street, six feet wide, six inches deep path, it must be on the same side of the street as the on street parking (north and east).

Sidewalks will be required on the throat of cul-de-sacs but not on the bulb. **See Figure 170 #2**



**Figure 170 #2** (this picture shows sidewalks on both sides of the road, it is only meant to show how the sidewalks will terminate on cul-de-sacs.

6. **Curb and Gutter.** The subdivider shall at his or her expense install curb and gutter on all streets in the plat being dedicated for public use. Curb and gutter shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the Council.

7. **Surfacing.** The subdivider shall at his or her expense surface all streets being dedicated for public use from curb to curb. Surfacing shall consist of not less than six inches of Portland cement concrete over a prepared subgrade and shall be constructed in accordance with designs and specifications and at grades approved by the Council. Where a surface width in excess of 31 feet is required, the cost of the additional surface width, which shall be assumed to be the center portion of the roadway surface, shall be paid by the City. On collector and thoroughfare streets, where a higher standard or greater thickness of street surfacing is deemed necessary by the Council than is herein required, the additional cost shall be borne by the City.

8. **Markers or Monuments.** The subdivider shall at his or her expense place in an iron rod not less than one-half inch in diameter and 24 inches in length as follows:

A. Set in concrete three feet deep at the intersection of all lines forming angles in the boundary of the subdivision and at all street intersections.

B. At lot corners and changes in direction of block and lot boundaries.

9. **Trees.** To enhance the aesthetics of our streets, to improve walkability, and enhance property values the following overstory trees must be planted prior to an occupancy permit being issued. If the home is completed at a time when tree planting is not recommended, the builder will pay \$500.00 to the City and the City will plant the tree at an appropriate time. The trees should be planted at a minimum of 40' intervals. Each lot is required to plant one two inch caliper tree (at a height of four feet from the root ball) from the list below. On the sidewalk side of the street the tree shall be planted

four feet from the curb. On the non-sidewalk side, the tree shall be planted eight feet from the curb so as to prevent planting directly above water and sewer lines. To prevent the spread of diseases, the exact same species of tree cannot be planted next to one another. Watering, maintaining, and pruning the tree is the responsibility of the homeowner. The City will be responsible for removing dead or dying trees.

### CITY OF COLFAX TREE PLANTING LIST

*The following trees are adapted well to Iowa and constitute the approved list*

1. <b><u>Approved Trees</u></b>	1. <b><u>Prohibited Trees</u></b>
1. Bald Cypress	2. Ash (All species and cultivars)
1. Northern Catalpa	3. Austree
1. Dawn Redwood	4. Birch, White/Paper
1. American Hybrid Elm	5. Box Elders
1. Ginkgo (male only)	6. Conifers (evergreen species)
1. Common Hackberry	7. Cottonwood
1. Bitternut Hickory	8. Siberian Elm
1. Mockernut Hickory	9. Empress Tree/Princess Tree
1. Shagbark Hickory	10. Fruit and Nut trees
1. Honey Locust	11. Red Maple (all hybrids)
1. Horse Chestnut	12. Silver Maple (all hybrids)
1. Kentucky Coffee Tree	13. Mountain Ash
1. Silver Linden	14. Mulberry
1. Black Locust	15. Multi-Stem/Clump Form Trees
1. Freeman Maple	16. Pear (all species)
1. Sugar Maple	17. Poplar
1. Sweet Gum	18. Russian Olive
1. Sycamore/London Plane	19. Tree of Heaven
1. Tulip	20. Trees with thorns
1. Japanese Zelkova	21. Willows (all species)
1.	22. Woody, brushy shrubs

10. **Parking.** To enhance pedestrian safety by providing additional space between travel lanes and the sidewalk, parking lanes (and sidewalks) in new subdivisions shall be on the north and east sides of the roadway. Parking will be allowed on all portions of a cul-de-sac bulb. The cross section should look like **Figure 170 #1**



**Figure 170 #1** (front yard setbacks are not shown in the diagram)

**170.18 UTILITIES.** The Council may require that all utility lines except electric lines of nominal voltage in excess of 15,000 volts, be installed underground. The subdivider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. If overhead utility lines or wires are permitted, they shall be placed in the easements provided in the rear of the lots. In their determination on whether or not to require underground utilities, the Council may consider that soil, topographical or other conditions make such installations within the subdivision unreasonable or impractical. Utilities shall be provided in rear lot easements wherever possible. When it is necessary to install utilities in street rights-of-way, the following requirements shall apply:

1. After grading is completed and approved and before any pavement base is applied, all of the in-street underground work (water mains, gas mains, etc., and all service connections) shall be completely installed and approved through the length of the street and across the flat section. Where the utility mains are outside the pavement area, the subdivider may be allowed to omit the installation of service connections provided that at such time as these service connections are needed, they may be jacked across the street without breaking or weakening the existing pavement.
2. Where rock is known to exist beneath the pavement area and at such depth as to interfere with the jacking of service connections, the complete installation of service connections before any base is applied shall be required. In cases where underground utilities must be provided within the right-of-way streets, they shall not be installed under the paved portions of such streets.

**170.19 SPECIFICATIONS.** The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City of like work. Plans and specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

**170.20 ACCEPTANCE.** All of the above improvements shall, upon their completion, inspection, approval and acceptance by the City, become the property of the City.

**170.21 IMPROVEMENTS WITHIN EXTRATERRITORIAL JURISDICTION.**

1. Improvements in the two-mile control area shall be the same as required above, provided they are not less than that required by the County subdivision policy, and provided further that all road and drainage construction plans shall be approved by the County Engineer, and complete roads shall be accepted by the Board of Supervisors for public maintenance.
2. Where the subdivision contains sewers, sewage treatment plants, water supply system, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreements, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities.

**170.22 SCHOOL AND PARK LAND DEDICATION REQUIREMENTS.** Dedication and/or reservation of land for schools and recreation areas shall be required for all major subdivisions with sites designated in the comprehensive plan or other plans of the appropriate public body.

1. **Park and Open Spaces Dedication.** In subdivisions of one-half acre or larger, a minimum of five percent of the net area shall be dedicated by the subdivider to the City for public parks, playgrounds or open space. In lieu of such dedication, the Council may allow said park and open space to be reserved by the subdivider and held by private person or home owners association or like entity under a Planned Unit Development. Such reservation shall be permanent as directed by the Council and held for the purpose of open space and recreation facilities and its purpose or use shall not be altered.
2. **Payments In Lieu of Dedication.** Where such dedication is not feasible or compatible with the comprehensive plan as determined by the Council upon recommendation of the Commission, the subdivider shall, in lieu of dedication, pay to the City a fee or combination of fee and land equivalent to the value of the required dedication. All funds so collected by the City shall be deposited in a special fund designated as *Special Fund for the Acquisition and Development of Open Space and Recreation Facilities*. Such funds collected shall be used for such purposes at such places to benefit residents of the subdivision.
3. **School Reservations.** Areas which are planned for public school use, either by Colfax-Mingo Community School District or in the comprehensive plan, shall be reserved for purchase by the school district within two years from the endorsement date of the final plat. After such time or upon written waiver from the school district, the subdivider may re-plat such areas for the subdivider's own purposes.
4. **Other Regulations.**
  - A. Public open spaces shall, whenever possible, be located contiguous to other such areas in adjacent subdivisions, in order to provide for maximum use of the resulting area. Such areas shall be shown on the preliminary plat. The Council may not approve a site which is undesirable for the public or civic uses.

B. If the comprehensive plan requires a public open space larger than five percent of the net area of the proposed subdivision, the subdivider shall reserve the area excess of the dedication requirement for purchase by the appropriate public agency within the two years from the endorsement date of the final plat. After such time, the subdivider may re-plat such acreage for the subdivider's own purposes.

C. Natural features, historic sites and similar community assets shall be preserved.

### **170.23 ADMINISTRATION AND ENFORCEMENT.**

1. Fees. Each preliminary plat submitted for approval shall be accompanied by a fee of \$25.00, which shall be credited to the General Fund of the City.

2. Variances. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this policy.

3. Enforcement. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall not be violated subject to the following:

A. No plat or subdivision of the City or within two miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.

B. No more than two building permits shall be issued for each separate tract existing at the effective date of the Ordinance codified in this chapter unless the tract shall have been platted in accordance with the provisions contained therein.

C. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after the date of the adoption of said ordinance unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

D. Any persons who shall dispose of or offer for sale or lease any lots in the City, addition thereto or within two miles thereof until the plat shall have been approved, acknowledged and recorded as provided by this chapter and Chapter 354 of the *Code of Iowa*, shall forfeit and pay \$50.00 for each lot or part thereof sold, disposed of, leased or offered for sale.

E. No zoning compliance permit required by the Zoning Ordinance shall be issued until and unless all improvements required by this chapter have been made in accordance with the City plans and specifications and accepted by the Council.

4. Amendments. Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, such amendments shall

first be submitted to the Commission for review and study. The Commission shall report within 30 days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. Such notice shall be published in a newspaper of general circulation at least 15 days prior to such hearing. The amendment shall become effective from and after its adoption and required publication.

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# APPENDIX TO CODE OF ORDINANCES

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## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

**1. OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

**2. DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

**3. SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

**4. RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

## **RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

## **SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

## **DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

## **AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

## **ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

## ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE  
CITY OF COLFAX, 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 Colfax, Iowa:

**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Colfax, 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 COLFAX, 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 Colfax, Iowa:

**SECTION 1. SUBSECTION REPEALED.** The Code of Ordinances of the City of Colfax, 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 COLFAX, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Colfax, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.01 of the Code of Ordinances of the City of Colfax, 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 COLFAX, IOWA**

Be It Enacted by the City Council of the City of Colfax, Iowa:

**SECTION 1.** The (location or legal description of street or alley) to Colfax, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

**SUGGESTED FORMS**

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**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 Colfax, 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 Colfax, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

**NOTICE OF HEARING****REQUIRED SEWER CONNECTION**

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that the City Council of Colfax, 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 Colfax, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

**RESOLUTION AND ORDER****REQUIRED SEWER CONNECTION**

**BE IT RESOLVED**, by the City Council of the City of Colfax, 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\_\_.

ATTEST:

\_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 Mayor



