

# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title	1.08 Amendments
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**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Underwood, 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 Underwood, Iowa.
3. “Clerk” means the city clerk of Underwood, 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 Underwood, Iowa.
6. “Council” means the city council of Underwood, Iowa.
7. “County” means Pottawattamie 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means the ordinances of the City of Underwood, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal

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

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

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

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

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

*(Code of Iowa, Sec. 364.1)*

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

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

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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

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

**1.13 GENERAL STANDARDS FOR ACTION.** Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or

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

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.<sup>†</sup>

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

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

## CHAPTER 2

### CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

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 Underwood, Iowa.<sup>†</sup>

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

**2.05 TERM OF MAYOR.** The Mayor is elected for a term of 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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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 69 adopting a charter for the City was passed and approved by the Council on September 19, 1977, and was published on September 29, 1977. Council member terms were changed to overlapping four-year terms pursuant to an election held November 7, 1989. The Mayor's term was changed to four years pursuant to an election held November 8, 2011.

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## CHAPTER 3

### MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties

3.04 Civil Citations  
3.05 Alternative Relief  
3.06 Alternative Penalties

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

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

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

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

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

1. Standard Civil Penalties.
  - A. First Offense – Not to exceed \$750.00
  - B. Each Repeat Offense – Not to exceed \$1,000.00

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

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

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

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

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

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

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

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

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

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

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

**3.06 ALTERNATIVE PENALTIES.** This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal

penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

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

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## CHAPTER 5

### OPERATING PROCEDURES

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2500.00) in a fiscal year.

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. If the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

*(Ord. 225 – June 15 Supp.)*

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

jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.

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

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## CHAPTER 6

### CITY ELECTIONS

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

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

**6.01 NOMINATING METHOD TO BE USED.** All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.  
*(Code of Iowa, Sec. 376.3)*

**6.02 NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten (10) eligible electors, residents of the City.  
*(Code of Iowa, Sec. 45.1)*

**Comment [ST1]:** Page: 29  
use ten unless population is OVER 3500; then use  
twenty-five

**6.03 ADDING NAME BY PETITION.** The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.  
*(Code of Iowa, Sec. 45.2)*

**6.04 PREPARATION OF PETITION AND AFFIDAVIT.** Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the Code of Iowa, and shall be signed in accordance with the Code of Iowa.  
*(Code of Iowa, Sec. 45.3, 45.5 & 45.6)*

**6.05 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS.** The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.  
*(Code of Iowa, Sec. 45.4)*

**6.06 PERSONS ELECTED.** The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.  
*(Code of Iowa, Sec. 376.8[3])*

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## CHAPTER 7

### FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the Code of Iowa.  
*(Code of Iowa, Sec. 384.21, 12B.10, 12C.1)*
3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.
5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10)

nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: the Clerk, Mayor, Mayor Pro

Tem, or designated Council member, following Council approval, except as provided by subsection 5 hereof.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.22)*

**CHAPTER 8**  
**URBAN RENEWAL**

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
105	6-3-91	Underwood Urban Renewal Area
129	12-5-94	Underwood Urban Renewal Area South
168	11-11-03	Field Crest Urban Renewal Area
206	3-9-10	Deleting Property from the Field Crest Urban Renewal Area
210	3-8-11	Field Crest Phase 3 Urban Renewal Area
211	6-14-11	2010 Urban Renewal District

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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 fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

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

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

9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.

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

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

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

1. Mayor Pro Tem

**15.04 COMPENSATION.** The salary of the Mayor is fifty dollars (\$50.00) for each meeting of the Council attended, payable semiannually.  
(*Code of Iowa, Sec. 372.13[8]*)

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

## CHAPTER 16

### MAYOR PRO TEM

16.01 Vice President of Council  
16.02 Powers and Duties

16.03 Voting Rights  
16.04 Compensation

**16.01 VICE PRESIDENT OF COUNCIL.** The Mayor shall appoint a member of the Council as Mayor Pro Tem, who shall serve as vice president of the Council.  
*(Code of Iowa, Sec. 372.14[3])*

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

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

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

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

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

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

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## CHAPTER 17

### CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

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

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

1. General. All powers of the City are vested in the Council except as otherwise provided by law or ordinance.  
*(Code of Iowa, Sec. 364.2[1])*
2. Wards. By ordinance, the Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards or create new wards.  
*(Code of Iowa, Sec. 372.13[7])*
3. Fiscal Authority. The Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.  
*(Code of Iowa, Sec. 364.2[1], 384.16 & 384.38[1])*
4. Public Improvements. The Council shall make all orders for the construction of any improvements, bridges or buildings.  
*(Code of Iowa, Sec. 364.2[1])*
5. Contracts. The Council shall make or authorize the making of all contracts. No contract shall bind or be obligatory upon the City unless approved by the Council.  
*(Code of Iowa, Sec. 26.10)*
6. Employees. The Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by State law or the Code of Ordinances.  
*(Code of Iowa, Sec. 372.13[4])*
7. Setting Compensation for Elected Officers. By ordinance, the Council shall prescribe the compensation of the Mayor, Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of Council members becomes effective for all Council members at the beginning of the term of the Council members elected at the election next following the change in compensation.  
*(Code of Iowa, Sec. 372.13[8])*

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

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

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

*(Ord. 192 – Apr. 08 Supp.)*

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**17.06 COMPENSATION.** The salary of each Council member is thirty dollars (\$30.00) for each meeting of the Council attended, payable semiannually.

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

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## CHAPTER 18

### CITY CLERK

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

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

**18.01 APPOINTMENT AND QUALIFICATION.** The Council shall appoint the City Clerk to serve at the pleasure of the Council. The Clerk shall not be related to any member of the Council, the Mayor, or the City Treasurer, within the second degree of consanguinity. The Clerk shall not be the spouse of any Council member, the Mayor or the City Treasurer. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

2. Manner of Publication. The three public places where public notices, ordinances, notices of elections and other matters permitted to be posted are to be displayed are:

City Hall  
Post Office  
Country Store

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

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Ord. 225 – June 15 Supp.)*

**18.13 CITY SEAL.** The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders and certificates which it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which is the word “SEAL” and around the margin of which are the words “INCORPORATED CITY OF UNDERWOOD, IOWA, INC. 1902.”

**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 by the Clerk 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 Clerk 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.
7. Reconciliation. Reconcile depository statements with the Clerk’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.

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## CHAPTER 19

### CITY TREASURER

19.01 Appointment and Qualification  
19.02 Compensation

19.03 Duties of Treasurer

**19.01 APPOINTMENT AND QUALIFICATION.** The Council shall appoint the City Treasurer to serve at the pleasure of the Council. The City Treasurer shall not be related to any member of the Council, the Mayor, or the City Clerk, within the second degree of consanguinity. The Treasurer shall not be the spouse of any Council member, the Mayor or the City Clerk.

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

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

1. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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## CHAPTER 20

### CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 21

### PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission  
21.02 Term of Office  
21.03 Vacancies

21.04 Compensation  
21.05 Powers and Duties

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

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

**21.04 COMPENSATION.** The salary of each member of the Commission shall be ten dollars (\$10.00) per meeting, payable annually.

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

4. Recommendations of Improvements. No statutory, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have

been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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**CHAPTER 30**  
**CONTRACT LAW ENFORCEMENT**

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

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

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## CHAPTER 35

### FIRE DEPARTMENT

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

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

*(Code of Iowa, Sec. 364.16)*

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

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

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

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 100.41)*

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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 City Liability

**36.01 PURPOSE.** In order to reduce the danger to the public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of 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. “Hazardous waste” means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation or physical, chemical or infectious characteristics, has either of the following effects:

A. Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.

B. Poses a substantial danger to human health or the environment.

“Hazardous waste” may include, but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives. It does not include (a) agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners; or (b) source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended.

4. "Person having control over a hazardous substance" 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 within the City limits, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters within the City, the person having control over the hazardous material 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, and shall restore the affected area to its state prior to the hazardous condition as far as practicable. The costs of cleanup shall be borne by the person having control over the hazardous substance. Alternatively, and at the City's discretion, the City may commence with the cleanup of the hazardous substance or waste and assess the costs of the cleanup in accord with the provisions of this chapter. If the cost of the cleanup services must be assumed by the City to ensure public safety, the officer shall report to the Council and immediately seek local, State or Federal funds available for said cleanup.

*(Ord. 205 – Mar. 10 Supp.)*

**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.

*(Ord. 205 – Mar. 10 Supp.)*

**36.05 NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the State Department of Natural Resources and the County Sheriff's Department and the County Emergency Management Agency of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition.
2. Any other person who discovers a hazardous condition shall notify the County Sheriff's Department, which shall then notify the Department of Natural Resources and the Emergency Management Agency.

**36.06 POLICE AUTHORITY.** If the circumstances reasonably so require, the City Fire Department, the County Sheriff, the Iowa State Highway Patrol, or the Mayor 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 issued under this section.

**36.07 CITY LIABILITY.** The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition caused by another person having control over a hazardous substance, or from the enforcement or lack of enforcement of this chapter by the City.

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## CHAPTER 37

### EMERGENCY AMBULANCE SERVICE

37.01 Purpose  
37.02 Service Established  
37.03 Organization  
37.04 Compensation  
37.05 Employment Status

37.06 Worker's Compensation and Liability Insurance  
37.07 Providing Service Outside the Corporate Limits  
37.08 Fees Established  
37.09 Calculation of Fees  
37.10 Payment of Fees

**37.01 PURPOSE.** The purpose of this chapter is to provide for emergency ambulance service to preserve and protect the health, safety and welfare of the general public.

**37.02 SERVICE ESTABLISHED.** There is hereby established an ambulance service owned and operated by the City and known as the Underwood Volunteer Ambulance Service.

**37.03 ORGANIZATION.** The Ambulance Service shall be under the general supervision of the Council. The Ambulance Director shall exercise complete authority under direction of the Council to ensure that the service is operated in accordance with high standards and meets all requirements of the State and the Federal government. Personnel for the Ambulance Service shall be made up of a group of volunteers who are qualified and have met the minimum education and training requirements. The volunteers, in cooperation with the Council, shall adopt a constitution and by-laws as deemed necessary to provide for the good operation and coordination of the Service. The constitution and by-laws shall be approved by the Council.

**37.04 COMPENSATION.** Compensation for volunteer attendants of the Ambulance Service shall be set by resolution of the Council. Compensation shall be paid only for the actual time spent making ambulance runs. In addition, the City shall reimburse volunteer members for the following:

1. Actual expenses incurred during an ambulance run for food, lodging and vehicle maintenance.
2. Training expenses incurred to meet minimum requirements for serving as an attendant on the Ambulance Service, including mileage to and from training sessions held outside of the City.
3. Clothing and other personal articles damaged while on a run with the Ambulance Service.

**37.05 EMPLOYMENT STATUS.** Members of the Ambulance Service shall be considered to be employees of the City while in the performance of all duties and services reasonably connected with the operation of the Ambulance Service, for the purpose of the application of worker's compensation statutes and for the purpose of the application of liability insurance coverage.

**37.06 WORKER'S COMPENSATION AND LIABILITY INSURANCE.** The City shall purchase sufficient insurance to cover all personnel providing ambulance service under the worker's compensation statutes of the State and shall purchase sufficient insurance to protect

the City against loss from damages or public liability resulting from the operation of the Ambulance Service. The amount of such insurance shall be determined by the Council.

**37.07 PROVIDING SERVICE OUTSIDE THE CORPORATE LIMITS.** The Ambulance Service is authorized to respond to calls outside the corporate limits of the City and provide mutual aid to other ambulance services as required by agreements with other services. The Ambulance Service is authorized to transport patients to such locations as may be necessary in each individual circumstance.

**37.08 FEES ESTABLISHED.** The fees for the use of the Ambulance Service and reasonably related emergency services furnished within or outside the City shall be established by resolution of the Council. They shall be adequate to cover all of the operating costs of the service except the replacement of vehicles.

**37.09 CALCULATION OF FEES.** The Ambulance Service shall calculate and render bills for ambulance service and all reasonably related services rendered pursuant to the schedule of fees fixed by the Council.

**37.10 PAYMENT OF FEES.** All ambulance service fees and fees and charges for reasonably related emergency services shall be due and payable upon presentation of a statement for said fees and charges to the user and/or recipient of the service, and shall be paid to the Clerk. Actions for collection of fees and charges shall be brought in the name of the City, after authorization of commencement of action by the Council, in the same manner as other actions at law.

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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 which is reasonably related to that sport.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Ord. 191 – Apr. 08 Supp.)*

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

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

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

A. Make loud and raucous noise which 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 which the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

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

*(Code of Iowa, Sec. 723.5)*

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

*(Code of Iowa, Sec. 723.2)*

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

*(Code of Iowa, Sec. 723.3)*

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

**41.05 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire

fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.09 DISCHARGING WEAPONS.**

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

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

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

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

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

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

*(Code of Iowa, Sec. 727.2)*

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: ..... \$250,000 per person.
- B. Property Damage: ..... \$50,000
- C. Total Exposure: ..... \$1,000,000  
(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 124.414)

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

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

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

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

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

(Code of Iowa, Sec. 719.1A)

**41.15 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)*

## 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 Disorderly House

#### 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 DISORDERLY HOUSE.** No person shall keep or use a disorderly house, either as owner, a tenant, agent or employee, or permit or allow a disorderly house to exist. For the purpose of this section, a disorderly house exists:

1. When any building, structure, enclosure, booth or other place is kept, used or maintained for any illegal purpose; or
2. When the owner or agent allows persons prone to frequent or continuous abuse of alcoholic beverages or drugs, or pimps, prostitutes, thieves or other persons who continually or repeatedly violate the laws of the State and the City to congregate and remain at, upon or about such place; or
3. When the owner or agent allows any such place to be used for any disorderly purpose or permits such place to be used for the purpose of illegally keeping, selling, possessing, consuming or giving away of any intoxicating liquor, beer, wine or unlawful drugs.

For the purpose of this section, a “tenant” means an occupant, inhabitant or dweller in such building, structure enclosure, booth or other place, or a person, other than the owner, who has control, either temporarily or permanently, of such place.

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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

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

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

*(Code of Iowa, Sec. 123.47[1A])*

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

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

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

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

*(Ord. 226 – June 15 Supp.)*

### 45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 123.46)*

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

## CHAPTER 46

### MINORS

46.01 Curfew  
46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

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

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

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

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

D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has

access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 12:00 midnight and 6:00 a.m.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

(3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;

(4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.

D. The minor is on an emergency errand for a responsible adult;

E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

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

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

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

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

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under

eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products. (Ord. 222 – June 15 Supp.)

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

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

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

## 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

**47.01 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 fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

**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, shall enter or remain within any park between the hours of 10:00 p.m. and 6:00 a.m.

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

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## CHAPTER 50

### NUISANCE ABATEMENT PROCEDURE

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  
50.08 Subsequent Violation Within 365 Days

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

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

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

11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 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.
  - B. Location of Nuisance. The location of the nuisance.

<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.

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, sent by first class regular mail, sent by certified mail, or by personal service to the property owner.

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

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

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

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

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

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

*(Code of Iowa, Sec. 364.13)*

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

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

**50.08 SUBSEQUENT VIOLATION WITHIN 365 DAYS.** If a person allows a subsequent nuisance to exist within 365 days after being served with a nuisance abatement notice involving the same subject matter and property as the subsequent nuisance and for which the City abated the previous nuisance pursuant to Subsection 50.06(5), the City shall have the right to abate the subsequent nuisance without prior notice to such person or property owner.

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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

#### 51.06 Lot Parking

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:
  - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
  - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.
  - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
  - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
  - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
  - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

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

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

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

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

**51.06 LOT PARKING.**

1. Definition. The term "lot" as used in this chapter shall mean a lot as defined in Chapter 165 (Ordinance No. 59 adopted April 9, 1973) of this City Code of Ordinances.
2. Lot Parking. No property owner or person in possession thereof shall allow more than two (2) vehicles, whether operable or inoperable, to be parked upon any lot exclusive of vehicles parked entirely on driveways or in garages or carports.
3. Lot Parking Duration. No property owner or person in possession thereof shall knowingly or unknowingly allow the parking or placement of any vehicles upon any lots, exclusive of driveways, garages or carports for more than seven (7) days.

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## CHAPTER 55

### ANIMAL PROTECTION AND CONTROL

55.01 Title	55.09 Barking Dogs
55.02 Purpose and Scope	55.10 Police Dogs
55.03 Jurisdiction	55.11 Dangerous and Vicious Animals Prohibited
55.04 Applicability	55.12 Dangerous Animals Allowed
55.05 Definitions	55.13 Impoundment
55.06 Animals "At Large"	55.14 Refusal of Admittance
55.07 Owner Duties	55.15 Miscellaneous Prohibited Acts
55.08 Livestock Prohibited	55.16 Enforcement

**55.01 TITLE.** This chapter shall be known and may be referred to as the "City of Underwood, Pottawattamie County, Iowa, Animal Control Chapter."

**55.02 PURPOSE AND SCOPE.** This chapter establishes responsibilities for animal owners or custodians in order to effectively manage animals and to control the danger to the public health, safety, and welfare presented by animals in the City and provides a mechanism to address animal control issues, problems, and complaints.

**55.03 JURISDICTION.** The provisions of this chapter shall apply to all of the incorporated areas of Underwood, Pottawattamie County, Iowa.

**55.04 APPLICABILITY.** In the event of a difference between the provisions of this chapter and those contained in applicable State rules and regulations, the most stringent standards will prevail.

**55.05 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. As used herein, the words "used" and "occupied" include the words "intended, designed or arranged to be used or occupied."

1. "Altered" means an animal that is either spayed or neutered.
2. "Animal" means any member of the animal kingdom except human beings.
3. "Animal Control Officer" means any Animal Control Officer under contract with the City to maintain compliance with this chapter.
4. "Animal shelter" means a facility which is used to house or contain dogs, cats, or other animals, and which is owned, operated or maintained by the County or operated under contract with the County for the purpose of the provisions of this chapter or any other chapter.
5. "At large" means off the premises of the owner, whether by accident, design, or otherwise.
6. "Board of Health" means the Board of Health of Pottawattamie County, Iowa.
7. "Cat" means a member of the *Feline* species, male or female, altered or unaltered.

8. "County Sheriff" means the County Sheriff of Pottawattamie County, Iowa, or any duly deputized representative.
9. "Dangerous animals" are:
  - A. Any genus/species of animal which is capable of killing, inflicting serious injury upon, or causing illness or disease among, human beings or domestic animals and having a known tendency (either in its natural state, in the wild, or as a tame, feral or domesticated animal) as a species to do so, and is declared to be a dangerous animal by the City Council.
  - B. Those animals deemed to be "dangerous animals per se" include the following, subject to amendment by the Council:
    - (1) *Canidae*: e.g., wolves, wolf-dog hybrids, coyotes, coyote-dog hybrids, foxes and jackals, within the order *Carnivora* but excluding *Canis familiaris*, the domestic dog.
    - (2) *Felidae*: e.g., lions, tigers, jaguars, leopards, cougars, lynx, ocelots, and bobcats, within the order *Carnivora* but excluding *Felis domestica*, the domestic cat.
    - (3) *Mustelidae*: e.g., badgers, wolverines, weasels, skunks, mink, and otters, within the order *Carnivora*, but not including domestic ferrets.
    - (4) *Procyonidae*: e.g., raccoons, pandas, and kinkajous, within the order *Carnivora*.
    - (5) *Ursidae*: e.g., black bears, brown bears, grizzly bears, polar bears, of the order *Carnivora*.
    - (6) *Chiroptera*: e.g., bats.
    - (7) *Cebidae*: e.g., monkeys.
    - (8) *Cercopithecidae*: e.g., baboons.
    - (9) *Callithricidae*: e.g., marmosets, tamarins.
    - (10) *Pongidae*: e.g., gibbons, orangutans, chimpanzees, gorillas.
    - (11) *Lemuridae*: e.g., lemurs.
    - (12) *Didelphidae*: e.g., opossums.
    - (13) *Castoridae*: e.g., beavers.
    - (14) *Viveridae*: e.g., civets and mongooses.
    - (15) *Hyaenidae*: e.g., hyaenas.
    - (16) *Formicidae*: e.g., fire ants within the order *Hymenoptera*.
    - (17) *Apidae*: specifically Africanized strains of *Apis mellifera* the honeybee.
    - (18) *Crocodylidae*: e.g., crocodiles, alligators, caimans, gavials, of the order *Squamata*.
    - (19) *Heloderamatidae*: e.g., gila monsters, beaded lizards, of the order *Squamata*.

- (20) *Crotalidae*: e.g., rattlesnakes, copperhead snakes, cottonmouth moccasin snakes, Wagler's vipers, palm vipers, eyelash vipers, of the order *Squamata*.
- (21) *Viperidae*: e.g., rhinoceros vipers, bushmasters, puff adders, gaboon vipers, of the order *Squamata*.
- (22) *Elapidae*: e.g., cobras, taipans, coral snakes, sea snakes, of the order *Squamata*.
- (23) *Opisthoglyphous colubridae*: e.g., twigsnakes, boomslangs, mangrove snakes, mussuranas, Malagasy hognose snakes of the order *Squamata*.
- (24) *Eunectes murinus*: e.g., anacondas of the order *Squamata*.
- (25) *Boa constrictor*: e.g., boa constrictors of the order *Squamata*.
- (26) *Morelia amethystina*: amethystine pythons of the order *Squamata*.
- (27) *Python sebae*: African rock pythons of the order *Squamata*.
- (28) *Python molurus*: Burmese pythons, Indian pythons, Ceylonese pythons of the order *Squamata*.
- (29) *Python reticulatus*: reticulated pythons of the order *Squamata*.
- (30) Venomous spiders of the families *Theridiidae*, and *Loxoscelidae* respectively, and scorpions of the order *Scorpions*.

C. Animals used in agriculture as defined by the United States Department of Agriculture are not considered dangerous animals.

- 10. "Dog" means any member of the *Canine* species, male or female, altered or unaltered.
- 11. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.
- 12. "Impound" means the act of placing an animal in an enclosure, to confine an animal within an enclosure or to seize and retain possession of an animal.
- 13. "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)
- 14. "Owner" means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his or her care, or who acts as its custodian, or who knowingly permits an animal to remain on or about any premises owned or occupied by such person for more than seven (7) consecutive days other than a veterinary hospital, licensed kennel or animal shelter.
- 15. "Zoning Ordinance" means the Zoning Ordinance of Pottawattamie County, Iowa.

**55.06 ANIMALS “AT LARGE.”**

1. It is unlawful for the owner of any animal, including livestock, to fail to keep the same from running at large in the City.
2. For the purpose of this chapter, an animal shall not be deemed at large if the animal is on the premises or property of the animal owner or the property of another, so long as the property owner has given his or her permission and the animal cannot enter onto the public streets, sidewalks, alleys, other public areas or property not owned by the animal's owner.
3. Notwithstanding the above, “at large” means off the premises of the owner, whether by accident, design, or otherwise, unless:
  - A. The animal is on a leash, cord, chain, or similar restraint not more than fifteen (15) feet in length and is under the control of a person competent to restrain and control the animal; or
  - B. The animal is within a motor vehicle of its owner such that it cannot escape or have contact with a person outside the vehicle and such that said confinement does not endanger the animal's health or well-being; or
  - C. The animal is housed within a veterinary hospital, licensed kennel, pet shop, or animal shelter.
4. Any animal found to be at large within the City shall be deemed a public nuisance. Animals found at large may be apprehended and impounded, costs of which shall be paid by the animal's owner.
5. Notwithstanding any provision to the contrary, animals injured or killed on or along public streets or public right-of-ways shall be deemed at large. The Animal Control Officer may remove all such animals and at his or her discretion take such animal needing medical attention to a veterinarian or animal shelter. The owner of such animal shall be responsible and liable for the expenses of medical treatment and care as well as impoundment fees and any other penalties imposed by this chapter.

**55.07 OWNER DUTIES.**

1. **Humane Treatment.** An owner or custodian shall provide sufficient food, water, shelter and humane treatment for any animal in such person's care. It is unlawful under this chapter for an owner or any other person to beat, starve or otherwise abuse any animal.
2. **Sanitary Conditions.** An owner or custodian shall keep all structures, pens, or yards wherein dogs or cats are confined clean, devoid of vermin and free of odors arising from urine or feces.
3. **Public Sanitation.** No owner or custodian of a dog or other animal shall permit such animal to discharge feces upon any public or private property, other than the property of the owner or custodian of the animal. The owner or custodian shall not, however, be considered in violation of this subsection provided such person takes steps to immediately remove and clean up the feces discharged by the animal from the property. 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. An owner or custodian may, as an alternative, collect the feces and

turn it under the surface of said owner's or custodian's soil in any manner that prevents odor or collection of vermin.

4. Tethering. An owner or custodian may not stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over, or across any public sidewalk, street, or alley or private property of anyone other than the owner or custodian.

5. Abandonment. No owner or custodian may abandon any animal where it may become a public charge, nuisance or may suffer injury, hunger or exposure.

6. Rabies Vaccination. An owner or custodian of a dog required to be licensed under this Code of Ordinances shall vaccinate said dog for rabies and maintain a current vaccination tag on the dog's collar at all times. The rabies vaccination shall be administered in accordance with Chapter 351 of the Code of Iowa. A current certificate of vaccination for rabies signed by a licensed veterinarian administering the vaccine shall be required for all animals for which the vaccination is required.

7. Minimum Age. No dog may be licensed under this Code of Ordinances unless at least one of the registered owners or custodians of said dog is at least eighteen (18) years of age. All registered owners or custodians (or owners or custodians of an unlicensed dog) 18 years of age or older shall be personally, jointly and severally liable for compliance with the provisions of this chapter and Chapter 56 of this Code of Ordinances.

8. Transfer of Ownership. A new owner or custodian shall within thirty (30) days from the date of a change in ownership of dog make an application and pay the fee for a new license as provided in Chapter 56 of this Code of Ordinances.

9. Number Restricted. It is unlawful for any person to own, keep or harbor at any time more than a total of three (3) dogs or cats, in any combination, in any one household.

10. Responsibility to Report Bite or Attack. This chapter incorporates all regulations and duties imposed by Iowa Code Chapter 351. Included in the Iowa Code is the duty of the owner or custodian of any animal that has bitten or attacked a person or any person having any knowledge of such bite or attack to report this act to a local health or law enforcement official. The owner or custodian must confine such animal in a manner directed by the Board of Health or the Animal Control Officer.

**55.08 LIVESTOCK PROHIBITED.** 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.

**Comment [ST2]:** Page: 30  
end here if no zoning regulations

**55.09 BARKING DOGS.**

1. It is unlawful to keep or harbor any dog which, by frequent, regular, habitual, or continued barking, whining, yelping, howling or other loud noises, causes serious annoyance or which tends to distract from the peace and good order of the City. Such annoyance shall be considered a public nuisance.

2. The Animal Control Officer or the County Sheriff shall have the authority to use all reasonable means to abate such nuisance, including (but not limited to) requiring that the owner make bona fide efforts to quiet the dog, or impoundment of the animal, costs of which shall be paid by the animal's owner or custodian.

3. Any person who shall fail or refuse to abate such nuisance shall be deemed to have committed a separate violation of this chapter for each 24-hour period thereafter during which said nuisance continues and be subject to like penalties provided under this chapter.

#### **55.10 POLICE DOGS.**

1. It is unlawful under this chapter for any person to taunt, tease, strike, injure or kill any dog used by a law enforcement officer, law enforcement department or law enforcement agency at any time.
2. No person shall meddle with any such dog or any handler thereof in the performance of the functions of the law enforcement officer, law enforcement department or agency.
3. It is not a violation of this chapter for a law enforcement officer or veterinarian to euthanize a police dog in an emergency situation when done to end undue suffering and pain for the police dog.

#### **55.11 DANGEROUS AND VICIOUS ANIMALS PROHIBITED.**

1. It is unlawful for any person to keep, harbor, purchase or sell a dangerous or vicious animal. An animal may be deemed dangerous or vicious by the Animal Control Officer based on the criteria specified below. For the purpose of this section, the term "dangerous or vicious animal" includes but is not limited to any animal that either:
  - A. Attacks and/or bites any person or other animal without provocation; and/or
  - B. Kills or seriously injures any person; and/or
  - C. Kills or seriously injures livestock or a domestic animal; and/or
  - D. Approaches any person or other animal in an apparent attack posture or in a vicious or terrorizing manner, whether or not the attack is consummated; and/or
  - E. Is cited for running at large three (3) or more times in one year.
2. The Animal Control Officer shall immediately seize such dangerous or vicious animal, which shall be held for five (5) days. If, by the end of the impoundment period, the person keeping, harboring, or sheltering said dangerous or vicious animal, has not petitioned the court seeking return of the animal, the Animal Control Officer shall have cause for the euthanasia of the animal.
3. Dogs used in security or police work shall not be classified as dangerous or vicious if a bite or bites occur while the dog is actually performing in such a capacity.
4. Owner or Custodian Liability. If a dog or other animal, without provocation, attacks or injures any person who is peaceably conducting himself or herself in a place where such person may lawfully be, the owner of such dog or other animal is liable in damages to such person for the full amount of the injury sustained. If a dog or other animal, without provocation, attacks or injures another animal, the owner or custodian of such dog or animal is liable for damages caused to the injured animal by the attack.

**55.12 DANGEROUS ANIMALS ALLOWED.** The prohibition contained in Section 55.11 of this chapter does not apply to the keeping of dangerous animals in the City under any of the following circumstances:

1. Dangerous animals kept at State licensed veterinary hospitals, humane societies, licensed rehabilitator or animal control pounds for treatment or impoundment purposes.
2. Dangerous animals kept by Federal, State, County and municipal authorities and their designees or veterinarians pursuant to the enforcement of this or any animal control ordinance.
3. Dangerous animals kept by governmental agencies, educational institutions, medical institutions or research laboratories for instructional or research purposes.
4. Dangerous animals kept in publicly owned zoos.
5. Dangerous animals kept for fur pelting businesses, subject to compliance with the City's zoning regulations.
6. Dangerous animals kept by individuals meeting USDA permit requirements.
7. Dangerous animals commercially exhibited for ten (10) days or less.
8. Animals being commercially transported through the City.

**55.13 IMPOUNDMENT.**

1. It is the duty of the persons authorized by the Zoning Ordinance to operate or contract with an animal shelter, to supervise and control such a facility, to cause the shelter to be kept in a sanitary condition and free from offensive odors, to provide for adequate food, water, and shelter, to provide for the collection of animals, to handle the destruction or disposition of animals not reclaimed, and to assist in the enforcement and operation of this chapter.
2. Animals found at large and abandoned animals may be taken and impounded at the animal shelter and confined in a humane manner.
3. Upon impounding an animal, the owner or custodian, if known, shall be given notice of impoundment within two (2) days and the owner or custodian shall then have three (3) days to reclaim the animal not counting the day of impoundment.
4. A person claiming an impounded animal shall pay impoundment fees and boarding fees as established by the animal shelter.
5. A person claiming an impounded animal shall provide proof of current rabies vaccination and City license if applicable.
6. A person claiming an impounded animal shall also pay veterinary charges, if any, and such other costs actually incurred by the animal shelter in the care of the claimed animal.
7. No animal need be kept for the period of notification or impoundment if a licensed veterinarian or an Animal Control Officer certifies that the animal is so diseased or injured that it is unduly suffering or cannot survive. In such cases the animal may be humanely euthanized. The owner or custodian shall pay any fees associated with the euthanasia.

8. Animals not reclaimed within the time limitations provided by the chapter shall become the property of the County or animal shelter and shall be placed for adoption in a suitable home or humanely euthanized. No unclaimed animal shall be released for adoption to a suitable home without being sterilized, or without a written agreement from the adopter, guaranteeing that such animal will be sterilized.

9. The refusal to reclaim any impounded animal shall not relieve the owner of the duty to pay the impoundment fees, boarding fees, veterinarian expenses, euthanasia fees or any other costs incurred in the care of the animal. Any owner or custodian who refuses to pay such expenses shall be in violation of this chapter and subject to citation of a City infraction for the same.

10. Neither the City nor the County nor the animal shelter, nor their agents and officers enforcing the provisions of this chapter shall be liable for any accident or subsequent disease that may occur in connection with the impoundment of any animal pursuant to this chapter.

**55.14 REFUSAL OF ADMITTANCE.** In the event the Animal Control Officer or the County Sheriff, in proceeding to enter onto a property to carry out the provisions of this chapter, shall be refused entry, a complaint may be made under oath to any magistrate of the County. Said magistrate shall thereupon issue a warrant directed to the County Sheriff commanding said officer, between the hours of sunrise and sunset, accompanied by the Animal Control Officer, to enter onto such property and to make such inspection as may be required to carry out the provisions of this chapter, which order shall be executed by said County Sheriff under the direction of the Animal Control Officer.

**55.15 MISCELLANEOUS PROHIBITED ACTS.**

1. Abuse. It is unlawful under this chapter for any person to beat, starve or otherwise abuse any animal.

2. Animals for Entertainment. It is unlawful under this chapter for any person to use animals for entertainment purposes, including but not limited to: selling or giving away any animal as an incentive, prize or novelty; owning, breeding or training any animal (or other similar activity) for purposes of fighting between such animal with another animal or human being; intentionally killing or injuring any animal for sport, wagering or entertainment.

3. Poisoning Animals. It is unlawful under this chapter for any person to knowingly poison or cause to be poisoned any domestic animal. Any drug used for euthanasia shall be used by or under the direction of a licensed veterinarian.

4. Killing Animals. It is unlawful under this chapter for any person to knowingly kill any domestic animal except: (i) in an emergency situation to end the immediate suffering of the animal; (ii) when the animal is not under the supervision of its owner or custodian and is in the process of injuring, wounding or killing another animal or a human being; or (iii) under the direction of a licensed veterinarian.

**55.16 ENFORCEMENT.**

1. According to the 28E Agreement between Pottawattamie County and the City to provide animal control services, it shall be the duty of the Animal Control Officer and/or County Sheriff to enforce the provisions of this chapter.

2. Those representatives authorized to enforce this chapter may issue a citation of municipal infraction with or without prior notice to any person who is alleged to have committed a municipal infraction.

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## **CHAPTER 56**

### **DOG LICENSE REQUIRED**

#### **56.01 License Required**

#### **56.02 Kennel Dogs**

**56.01 LICENSE REQUIRED.** It is unlawful for any person to keep or harbor any dog over the age of six (6) months, which has not been issued a dog license. The City Clerk shall issue no dog license unless the person has supplied: (i) a valid rabies vaccination certificate; and (ii) a certificate of spaying or neutering for the dog for which the license is being applied. Current rabies and dog license tags must be visible at all times. The filing fee as follows shall accompany said application:

1. \$10.00 annually for altered animal, due January 1.
2. \$20.00 annually for unaltered animal, due January 1.
3. \$10.00 late fee assessed March 1 of each calendar year.
4. A half-year license shall be issued for animals acquired after July 1 at half of the annual fee.

**56.02 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.

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## CHAPTER 60

### ADMINISTRATION OF TRAFFIC CODE

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

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

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

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

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

### GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations  
62.02 Play Streets Designated  
62.03 Vehicles on Sidewalks

62.04 Clinging to Vehicle  
62.05 Quiet Zones  
62.06 Obstructing View at Intersections

**62.01 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.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.

- 55. Section 321.299 – Overtaking a vehicle.
- 56. Section 321.302 – Overtaking and passing.
- 57. Section 321.303 – Limitations on overtaking on the left.
- 58. Section 321.304 – Prohibited passing.
- 59. Section 321.306 – Roadways laned for traffic.
- 60. Section 321.307 – Following too closely.
- 61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 62. Section 321.309 – Towing; convoys; drawbars.
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers approaching blind persons.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal 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.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.

- 122. Section 321.408 – Back-up lamps.
- 123. Section 321.409 – Mandatory lighting equipment.
- 124. Section 321.415 – Required usage of lighting devices.
- 125. Section 321.417 – Single-beam road-lighting equipment.
- 126. Section 321.418 – Alternate road-lighting equipment.
- 127. Section 321.419 – Number of driving lamps required or permitted.
- 128. Section 321.420 – Number of lamps lighted.
- 129. Section 321.421 – Special restrictions on lamps.
- 130. Section 321.422 – Red light in front.
- 131. Section 321.423 – Flashing lights.
- 132. Section 321.430 – Brake, hitch, and control requirements.
- 133. Section 321.431 – Performance ability.
- 134. Section 321.432 – Horns and warning devices.
- 135. Section 321.433 – Sirens, whistles, and bells prohibited.
- 136. Section 321.434 – Bicycle sirens or whistles.
- 137. Section 321.436 – Mufflers, prevention of noise.
- 138. Section 321.437 – Mirrors.
- 139. Section 321.438 – Windshields and windows.
- 140. Section 321.439 – Windshield wipers.
- 141. Section 321.440 – Restrictions as to tire equipment.
- 142. Section 321.441 – Metal tires prohibited.
- 143. Section 321.442 – Projections on wheels.
- 144. Section 321.444 – Safety glass.
- 145. Section 321.445 – Safety belts and safety harnesses; use required.
- 146. Section 321.446 – Child restraint devices.
- 147. Section 321.449 – Motor carrier safety regulations.
- 148. Section 321.449A – Rail crew transport drivers.
- 149. Section 321.450 – Hazardous materials transportation.
- 150. Section 321.454 – Width of vehicles.
- 151. Section 321.455 – Projecting loads on passenger vehicles.
- 152. Section 321.456 – Height of vehicles; permits.
- 153. Section 321.457 – Maximum length.
- 154. Section 321.458 – Loading beyond front.
- 155. Section 321.460 – Spilling loads on highways.
- 156. Section 321.461 – Trailers and towed vehicles.

- 157. Section 321.462 – Drawbars and safety chains.
- 158. Section 321.463 – Maximum gross weight.
- 159. Section 321.465 – Weighing vehicles and removal of excess.
- 160. Section 321.466 – Increased loading capacity; reregistration.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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## CHAPTER 63

### SPEED REGULATIONS

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

63.04 Special Speed Zones  
63.05 Minimum Speed  
63.06 Controlled Access Facilities

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

*(Code of Iowa, Sec. 321.285)*

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

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

**63.03 PARKS, CEMETERIES AND PARKING LOTS.** A speed in excess of ten (10) miles per hour in any public park, cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

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

*(Code of Iowa, Sec. 321.290)*

1. Special 15 MPH Speed Zones. A speed in excess of fifteen miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. Sunset Drive.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. Highway Street.

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

*(Code of Iowa, Sec. 321.294)*

**63.06 CONTROLLED ACCESS FACILITIES.** Speed limits on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

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## CHAPTER 64

### TURNING REGULATIONS

#### 64.01 Turning at Intersections

#### 64.02 U-turns

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Through Streets – Stop

65.02 Stop Required

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

*(Code of Iowa, Sec. 321.345)*

1. Highway 191 within the City.

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

*(Code of Iowa, Sec. 321.345)*

1. First Avenue. Vehicles traveling south on First Avenue shall stop at Third Street.
2. Second Avenue. Vehicles traveling south on Second Avenue shall stop at Third Street.
3. Second Avenue. Vehicles traveling north on Second Avenue shall stop at First Street.
4. Third Avenue. Vehicles traveling north on Third Avenue shall stop at Third Street.
5. Fourth Avenue. Vehicles traveling on Fourth Avenue shall stop at County Road G-30.
6. Fourth Street. Vehicles traveling on Fourth Street shall stop at Third Avenue.
7. First Street. Vehicles traveling east on First Street shall stop at First Avenue.
8. First Street. Vehicles traveling west on First Street shall stop at Fourth Avenue.
9. Third Avenue. Vehicles traveling north on Third Avenue shall stop at County Road G-30.
10. Clark Circle. Vehicles traveling north on Clark Circle shall stop at County Road G-30.
11. Charles Drive. Vehicles traveling south on Charles Drive shall stop at Third Street.
12. Fourth Avenue. Vehicles traveling south on Fourth Avenue shall stop at Third Street.

13. Second Street. Vehicles traveling east on Second Street shall stop at First Avenue.
14. Milwaukee Avenue. Vehicles traveling north on Milwaukee Avenue shall stop at Third Street.
15. Fourth Street. Vehicles traveling on Fourth Street shall stop at Second Avenue.
16. Sunset Drive. Vehicles traveling north on Sunset Drive shall stop at County Road G-30.
17. Sunset Drive. Vehicles traveling south on Sunset Drive shall stop at Third Street.
18. Hannah Circle. Vehicles traveling west on Hannah Circle shall stop at Sunset Drive.
19. High Circle. Vehicles traveling west on High Circle shall stop at Sunset Drive.
20. Second Avenue. Vehicles traveling north on Second Avenue shall stop at Third Street.
21. Sunset Circle. Vehicles traveling west on Sunset Circle shall stop at Sunset Drive.
22. Eagle Circle. Vehicles traveling east on Eagle Circle shall stop at Milwaukee Avenue.

**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)*

– NONE –

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

*(Code of Iowa, Sec. 321.345)*

– NONE –

**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 ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

*(Code of Iowa, Sec. 321.249)*

– NONE –

**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 Route

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

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

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

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

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

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

1. First Avenue;
2. Fourth Avenue;
3. Fourth Street.

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

*(Code of Iowa, Sec. 321.471)*

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

1. Truck Routes Designated. Every motor vehicle weighing five (5) 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. Highway 191;
- B. County Road G-30;
- C. Third Street.

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

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

## **CHAPTER 67**

### **PEDESTRIANS**

67.01 Walking in Street  
67.02 Hitchhiking

67.03 Pedestrian Crossing  
67.04 Use Sidewalks

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## **CHAPTER 68**

### **ONE-WAY TRAFFIC**

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

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

– NONE –

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## CHAPTER 69

### PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.07 Persons With Disabilities Parking
69.02 Park Adjacent to Curb – One-way Street	69.08 No Parking Zones
69.03 Angle Parking	69.09 Truck Parking Limited
69.04 Angle Parking – Manner	69.10 Snow Removal
69.05 Parking for Certain Purposes Illegal	69.11 Controlled Access Facilities
69.06 Parking Prohibited	

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. Third Street on both sides from Third Avenue to First Avenue;
2. Third Avenue on the west side from County Road G-30 to a point approximately 225 feet south;
3. Fourth Street on the north side from Second Avenue to a point approximately 100 feet west;
4. Second Avenue on the west side from Third Street to Fourth Street.

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

*(Code of Iowa, Sec. 321.361)*

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

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

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

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

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

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

*(Code of Iowa, Sec. 321.358[11])*

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

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

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

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

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

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

- B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa;
  - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the Code of Iowa when utilizing a wheelchair parking cone.
  - B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.

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

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

1. Second Street, on the north side from Highway 191 east approximately one-half block.
2. Third Street, west from Highway 191 to the west edge of school property.
3. Second Avenue, from Third Street to Fourth Street, on the west side from 2:30 a.m. to 7:00 a.m.
4. Second Street, from First Avenue to Second Avenue, on the south side, except for church functions.
5. Third Avenue, from Third Street, north to the alley, on the west side.
6. Clark Circle, on the west side to the end of the cul-de-sac.
7. High Circle, on the north side to the end of the cul-de-sac.
8. North Street, on the north side from Highway 191 east to First Avenue.
9. First two parking spaces on the north side of Third Street west of Second Avenue.

**69.09 TRUCK PARKING LIMITED.** The parking of trucks and/or trailers or any combination thereof weighing four (4) tons or more, loaded or empty, is prohibited on or in the streets of the City and in the alleys of the City except for the purpose of loading or unloading. No person shall park or leave unattended any such vehicle on any of the following designated streets:

1. First Street on both sides from Highway 191 to First Avenue;
2. Third Street on both sides from Highway 191 to First Avenue.

**69.10 SNOW REMOVAL.** No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow removal

**Comment [ST3]:** Page: 30  
typical times for noise subsection of truck parking -- 11 p.m. to 5 a.m.

operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

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

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

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00).

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

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

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

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

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

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

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

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 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose  
75.02 Definitions  
75.03 General Regulations  
75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles  
75.06 Negligence  
75.07 Accident Reports

**75.01 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 that contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

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.

*(Ord. 223 – June 15 Supp.)*

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 ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

4. Trails. Snowmobiles shall not be operated on 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.

**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.”

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

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

**75.07 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

**76.05 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 which prevents the rider from keeping at least one hand upon the handle bars.

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

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

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

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

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

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

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

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

**76.09 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 which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

**76.13 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 the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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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 Notification in Newspaper	80.09 Duties of Demolisher
80.05 Fees for Impoundment	

**80.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 321.89[1]*)

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

**80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or

hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

**80.03 NOTICE BY MAIL.** The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. 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 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

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

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

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

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

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

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

**80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.** The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

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## CHAPTER 95

### SANITARY SEWER SYSTEM

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

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

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**Comment [ST4]:** Page: 30  
optional – end subsection here.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

*(Code of Iowa, Sec. 716.1)*

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

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

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

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

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

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

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

*(IAC, 567-69.1[3])*

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

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

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

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

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

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

**95.10 CURB VALVE.**

1. New Construction. For all lots in which new residential or commercial construction commences, there shall be installed within the public right-of-way of each lot a main shut-off valve to the connection of the sewer service line. Such shut-off valve and the installation thereof shall be approved by the Superintendent.
2. Existing Service. The Council shall have the right to require any property or lot owner to install a shut-off valve as set forth in subsection 1 hereof if the Council determines that the sewer customer upon such property or lot is "habitually delinquent." A customer is considered to be "habitually delinquent" if such customer has been delinquent in payment of sewer service fees in accord with Section 99.02 of this Code of Ordinances for 90 days and/or a notice of lien has been sent to said

customer. The City shall provide the property or lot owner with written notice by way of personal service or certified mail to make such curb valve installation within a reasonable time set forth by the City. If such installation has not been completed within the time provided by the City, the City may commence and complete the installation of the curb valve and assess the costs against the property owner in accord with Section 99.07 of this Code of Ordinances, and shall have any other remedy allowed to it under this Code of Ordinances and under Iowa law.

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## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Connection Charge  
96.03 Plumber Required  
96.04 Excavations  
96.05 Connection Requirements

96.06 Interceptors Required  
96.07 Sewer Tap  
96.08 Inspection Required  
96.09 Property Owner's Responsibility  
96.10 Abatement of Violations

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 CONNECTION CHARGE.** All applications for connections to the public sewer system shall be accompanied by a connection charge in accordance with the following:

1. Residential Premises: Two hundred dollars (\$200.00).
2. Commercial and Industrial Premises: A minimum charge of seven hundred fifty dollars (\$750.00) or a eight cents (\$.08) per square foot of usable space charge, whichever is greater.

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

**96.04 EXCAVATIONS.** All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances, except that no backfill shall be placed until the work has been inspected.

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

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

the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

- A. Recommended grade at one-fourth ( $\frac{1}{4}$ ) inch per foot.
- B. Minimum grade of one-eighth ( $\frac{1}{8}$ ) inch per foot.
- C. Minimum velocity of 2.00 feet per second with the sewer half full.
- D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR 22.5 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or

where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

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

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

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

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

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

Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

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

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

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

## CHAPTER 97

### USE OF PUBLIC SEWERS

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

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

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies 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 which exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES – POWERS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the 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.

## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Rate  
99.03 Rates Outside City  
99.04 Special Rates  
99.05 Private Water Systems  
99.06 Payment of Bills  
99.07 Service Discontinued  
99.08 Lien for Nonpayment

99.09 Lien Exemption  
99.10 Lien Notice  
99.11 Administrative Fee  
99.12 Special Agreements Permitted  
99.13 Irrigation Meters  
99.14 Swimming Pools  
99.15 Customer Deposits

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service fees as hereinafter provided.

*(Code of Iowa, Sec. 384.84)*

**99.02 RATE.** Each customer shall pay to the City sewer service fees as hereinafter provided.

*(Code of Iowa, Sec. 384.84)*

1. Residential property owners shall pay a monthly charge based upon the amount of water consumed as follows:

Number of Gallons	Monthly Charge
First 1,000 gallons (minimum)	\$5.50
1,001 gallons and over	\$5.50 per 1,000 gallons

2. Multi-dwelling, commercial and industrial property owners shall pay a monthly charge based upon the amount of water consumed as follows:

Number of Gallons	Monthly Charge
First 2,000 gallons (minimum)	\$12.00
Next 3,000 gallons	\$6.25 per 1,000 gallons
Next 5,000 gallons	\$6.00 per 1,000 gallons
Next 10,000 gallons	\$5.80 per 1,000 gallons
20,001 gallons and over	\$5.50 per 1,000 gallons

3. Customers who contribute wastewater, the strength of which is greater than normal domestic sewage (defined as 300 parts per million of five-day biochemical oxygen demand), shall be subject to a surcharge which may be established by ordinance from time to time.

4. Bills or invoices for sewer service shall be issued as promptly as possible following the reading of the customer's meter. All bills or invoices shall be paid in full within twenty (20) days of the date of issuance or shall be considered delinquent.

**99.03 RATES OUTSIDE CITY.** Sewer service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve. No customer, however, will be served unless the customer has signed a service contract agreeing to be

bound by the ordinances, rules and regulations applying to sewer service established by the Council.

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

*(Code of Iowa, Sec. 384.84)*

**99.05 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)*

**99.06 PAYMENT OF BILLS.** Bills for combined service accounts shall be due and payable at the office of the Clerk within 20 days after date of issuance, unless otherwise indicated on the bill. The provisions of Section 99.07 and 99.08 shall be used to enforce collection of delinquent sewer charges.

*(Code of Iowa, Sec. 384.83[1])*

1. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$8.00 shall be added to each delinquent bill. A waiver of the late payment penalty shall be granted to each customer once each calendar year.
2. Returned Check Charge. If a check draft received in payment of a combined service account is refused and returned by the bank, the customer's account shall be charged an additional \$30.00 fee. This charge shall be in addition to other charges and penalties provided by this chapter and any charges incurred from the bank.

**99.07 SERVICE DISCONTINUED.** Service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail 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.
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 the customer or owner in writing to the Clerk within seven (7) days of the date of issuance after the notification by the Clerk

under subsection 1, a committee of the Council shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the committee's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A service fee of fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer.

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

*(Code of Iowa, Sec. 384.84)*

**99.09 LIEN EXEMPTION.** Residential rental property where a charge for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property 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 shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

**99.10 LIEN NOTICE.** A lien for delinquent sewer 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 thirty (30) days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**99.11 ADMINISTRATIVE FEE.** The administrative fee for certifying and filing a lien for delinquent sewer service charges is five dollars (\$5.00), which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payer.

*(Code of Iowa, Sec. 384.84[4])*

**99.12 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

**99.13 IRRIGATION METERS.**

1. A customer may choose to install an irrigation meter at his or her own expense to meter water used for outdoor and swimming pool uses that do not discharge into the City's sewer system.
2. The irrigation meters shall be purchased from the City at a rate equal to the cost expended by the City. Payment in full shall be made to the City prior to receiving meter.
3. The total usage recorded on the irrigation meter shall be subtracted from the main meter's usage to calculate sewer charges.
4. Irrigation meters will be considered a part of the sanitary sewer system and shall be governed and enforced in accord with this chapter and with Section 95.07 of this Code of Ordinances.
5. Residential property owners maintaining a connected irrigation meter shall be charged a monthly fee in an amount that shall be established by way of resolution.
6. Upon written request to the City, any residential property owner utilizing an irrigation meter may discontinue usage of said meter.
7. Any residential property owner may submit a written request to the City for reconnection of a previously disconnected irrigation meter. Upon approval by the City, the residential property home owner shall remit a reconnection fee of \$200.00 to the City. The City's Sewer Superintendent shall then perform a reading of the reconnected irrigation meter.

**99.14 SWIMMING POOLS.**

1. Water from swimming pools shall not be discharged into the City's sewer system. Any violation of this section shall be punishable as a civil infraction. The City shall have the right and authority to inspect swimming pool construction and discharge to ensure compliance with this section.
2. A customer having a swimming pool but not having an irrigation meter may arrange a time for the Superintendent to meter the water used for filling the swimming pool. A minimum 48-hour notice is required.
3. The total usage recorded on the meter of water discharged into a swimming pool shall be subtracted from the main meter's usage to calculate monthly sewer charges.
4. A fee of \$50.00 shall be paid to the City prior to services being rendered in accord with Section 99.12.

**99.15 CUSTOMER DEPOSITS.**

1. Deposit Required. There shall be required from every customer or prospective customer served a fifty dollar (\$50.00) deposit intended to guarantee the payment of bills for service. Upon termination of the use of the sewer service by that customer for that building, any balance of such deposit shall be returned to the customer without interest. The deposit fee may be used upon final settlement as a credit to offset against any amount owed by the sewer user. If a user who has paid a deposit fee desires to terminate use of sewer from one connection and desires to make application for use of sewer from another connection for which the user would be

required to pay a deposit fee, then the deposit fee already paid may remain on deposit for the new application if the user pays the old account in full.

2. Previous Customers. Customers that (i) do not currently have a deposit on file with the City and (ii) for any reason are not in compliance with any of the regulations which apply to being a customer in good standing and/or to maintaining service from the City may, at the discretion of the City Clerk, be required to make a deposit based upon the average of the bills during the previous twelve months of sewer and garbage use to re-establish or to maintain service. The requirement to make a deposit under such conditions does not preclude the City from establishing such other regulations as may be necessary to insure that the customer is in compliance with all applicable regulations.

3. Unpaid Account. When sewer service has been discontinued for whatever reason, the deposit will be applied to any unpaid balance due the City Utilities Department.

4. No Deposit Received. In the event the sewer service is still on and the meter is in at the home or business being rented, it shall be the responsibility of the owner, or the realtor doing the renting, to have that person come to City Hall and make the necessary deposit before moving in.

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## CHAPTER 105

### SOLID WASTE CONTROL

105.01 Purpose  
105.02 Definitions  
105.03 Sanitary Disposal Required  
105.04 Health and Fire Hazard  
105.05 Open Burning Restricted  
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited  
105.08 Open Dumping Prohibited  
105.09 Toxic and Hazardous Waste  
105.10 Waste Storage Containers  
105.11 Prohibited Practices

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

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

1. “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[2])*
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
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.  
*(Code of Iowa, Sec. 455B.361[1])*
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, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

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

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.

*(Ord. 224 – June 15 Supp.)*

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

*(Code of Iowa, Ch. 657)*

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

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

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

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

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

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

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

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

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

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises (provided the County has not issued a burning ban) or placed in acceptable containers and set out for collection during spring and fall cleanup days. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

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

**105.08 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

*(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)*

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

*(IAC, 567-100.2)*

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

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall have a container for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
  - A. Residential. Residential garbage shall be bagged and securely fastened before being deposited into reusable containers provided by the City. All garbage shall be placed in container. Should a household consistently have more garbage than container will hold a second container will be required. Reusable containers are to stay with the property.
  - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in provided portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers provided by the City for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
4. Nonconforming Containers. Solid waste placed in containers other than those provided by City will not be collected.

**105.11 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

5. Dead Animals. Bury dead animals upon any property within the City, except small household pets may be buried by the owner upon said owner's property provided that the owner is reasonably sure that the death was not due to any communicable disease and that the animal is buried under at least twenty-four (24) inches of compacted soil. Heavy dead animals shall be disposed of at the expense of the owner and away from 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 all premises except premises with dumpsters. The owners or operators of commercial, industrial or institutional premises with dumpsters shall provide for the collection of solid waste produced upon such premises by contracting with the City or with another hauler of their choice.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

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

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 CONTRACT REQUIREMENTS.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from 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 therefor in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Fee for Collection. The fee for solid waste collection and disposal service, used or available, is \$11.50 per month.
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 99.06 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 99.07 if the combined service account becomes delinquent, and the provisions contained in Section 99.09 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 99.09 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 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

#### 110.02 Regulatory Power of City

**110.01 FRANCHISE GRANTED.** MidAmerican Energy Company, an Iowa corporation, its successors and assigns are hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from and after the adoption and approval of the ordinance codified by this chapter,<sup>†</sup> as provided by law, to acquire, construct, operate and maintain in the City the necessary facilities for the production, distribution, transmission and sale of gas for public and private use and to construct and maintain along, upon, across, and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes.

**110.02 FRANCHISE NOT EXCLUSIVE.** The franchise shall not be exclusive and shall not restrict in any manner the right of the Council or any other governing body of the City in the exercise of any regulatory power which it may now have or hereafter be authorized or permitted by the laws of the State.

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 104 adopting a natural gas franchise for the City, was passed and adopted on June 3, 1991.

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## CHAPTER 111

### ELECTRIC FRANCHISE

111.01 Grant of Franchise	111.06 Indemnification
111.02 State Code Restrictions and Limitations	111.07 Maintenance of Facilities
111.03 Excavations; Trimming of Trees	111.08 Standards of Operation
111.04 Relocation of Property	111.09 Police Regulations
111.05 Restoration of Property	

**111.01 GRANT OF FRANCHISE.** 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 system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell electric energy to the City and its inhabitants. 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 STATE CODE RESTRICTIONS AND LIMITATIONS.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa.

**111.03 EXCAVATIONS; TRIMMING TREES.** 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 conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to cut and trim at its expense any trees extending into any street, alley or public ground so as to prevent limbs or branches from interfering with the wires and facilities of the Company.

**111.04 RELOCATION OF PROPERTY.** The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s cost of relocation, the City will select the route that requires the other franchisees or users to relocate. 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.

<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 141, adopting an electric franchise for the City, was passed and adopted on August 12, 1997.

**111.05 RESTORATION OF PROPERTY.** In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

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

**111.07 MAINTENANCE OF FACILITIES.** The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

**111.08 STANDARDS OF OPERATION.** During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

**111.09 POLICE REGULATIONS.** All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

## CHAPTER 112

### TELEPHONE FRANCHISE

112.01 Franchise Granted  
112.02 Police Power

112.03 Service to City

**112.01 FRANCHISE GRANTED.** Qwest, a corporation (the “Company”), its successors and assigns are hereby granted the right to use and occupy the streets, alleys and other public places of the City for a term of twenty-five (25) years from the effective date of the ordinance codified by this chapter,<sup>†</sup> for the purpose of constructing, maintaining and operating a general telephone and telegraph system within the City.

**112.02 POLICE POWER.** The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

**112.03 SERVICE TO CITY.** The Company shall furnish the City without charge one telephone station to be furnished and maintained at such place as may be designated by the Council.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 45, adopting a telephone franchise for the City, was passed and adopted. Voters approved the franchise at an election held on April 11, 1963.

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## CHAPTER 113

# CABLE TELEVISION FRANCHISE AND REGULATIONS

113.01 Franchise Grant  
113.02 Rights Conferred by Franchise  
113.03 Installation of Cable System  
113.04 Relocation of Property  
113.05 Rates and Charges

113.06 Indemnification  
113.07 Payment to City  
113.08 Franchise Termination  
113.09 Local Office or Agent  
113.10 Renewal Terms

**113.01 FRANCHISE GRANT.** Pursuant to law, a nonexclusive franchise is granted to Walnut Communications to construct, own and operate a cable television system in the City. Said nonexclusive franchise is granted for a period of ten (10) years,<sup>†</sup> and shall vest all the rights, privileges and immunities of a cable television system with Walnut Communications; however, said nonexclusive franchise shall be subject to and conditional upon all of the terms, duties and obligations found in the laws of the State of Iowa, rules and regulations of the Federal Communications Commission and of this chapter.

### **113.02 RIGHTS CONFERRED BY FRANCHISE.**

1. This chapter confers upon the Grantee the nonexclusive right, authority, power and franchise to establish, construct, acquire, own, operate and maintain a cable television system within the City, and to render, furnish and sell such service to the inhabitants of the City and its environs and to use and occupy the streets and other public places within the corporate limits of the City as the same now exist or may hereafter exist for its cable system, including the right to enter and construct, erect, locate, relocate, repair and rebuild in, on, under, along, over and across the streets, alleys, avenues, parkways, lanes, bridges and to make use of all land dedicated or acquired for public use and locations approved by the City Engineer, and other public places in the City, all towers, poles, cables, amplifiers, conduits and other facilities owned, leased or otherwise used by the Grantee for the furnishing of cable television service within the City during the continuance of the franchise hereby granted and in accordance with the laws and regulations of the United States of America, the State of Iowa and ordinances and regulations of the City.

2. The poles used for the Grantee's distribution system shall be those erected and maintained by anyone authorized to maintain poles in the streets or public ways, when and were practicable. It is contemplated that reasonable standard pole attachment agreements will be entered into. Grantee is specifically granted the right to set its own poles in the event reasonable joint use is not possible or feasible. In any areas where electric or telephone utilities are now underground, and in any new subdivisions or new additions where said utilities are underground, the Grantee will lay its cable underground.

3. The City reserves the right of reasonable regulation of the erection, construction or installation of any facilities by the Grantee and to reasonably designate where such facilities are to be placed within the public ways and places.

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 209, adopting a cable television franchise for the City, was passed and adopted on January 10, 2011.

**113.03 INSTALLATION OF CABLE SYSTEM**

1. The installation of the cable system shall be in accordance with the requirements of the *National Electric Safety Code* of the American Insurance Association, latest edition, all applicable laws, ordinances, rules and regulations of the FCC, the State of Iowa, and of the City affecting electrical installations and building, now or hereafter in effect.
2. The Grantee, subject to the rights of adjoining property owners, at its expense, shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. All trimming is to be done under the supervision and direction of the City.
3. The Grantee shall at its expense protect, support, temporarily disconnect, relocate or remove any property of the Grantee located upon streets, rights-of-way and easements of the City, when required by the City because of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks or any other type of structure or improvement by the City; if the Grantee fails to do so, the City may cause the necessary work to be completed and Grantee shall pay the City the cost thereof within ten days after receipt of an itemized account.

**113.04 RELOCATION OF PROPERTY.** The Grantee, at the request of any person holding a permit issued by the City, shall temporarily remove, raise or lower its wires or cables to permit the moving of buildings or equipment. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the Grantee may require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours' advance notice to arrange for such temporary wire or cable changes.

**113.05 RATES AND CHARGES.** All rates and charges made by the Grantee for its services shall be fair, reasonable, just and uniform, and designed to meet all necessary costs of service, including a fair rate of return on net valuation of its properties devoted thereto under efficient and economic management. The Grantee shall have the authority to promulgate such rules and regulations, terms and conditions of its business as shall reasonably be necessary to enable the Grantee to exercise its rights and perform its services under the franchise and to assume an uninterrupted service to each and all of its customers.

**113.06 INDEMNIFICATION.** The Grantee agrees to hold and save harmless the City from any and all liability that may arise out of the construction, maintenance and operation or use of Grantee's system and works and the providing of such services and to provide and keep in force adequate liability insurance therefor, to the extent of bodily injury limits of \$500,000/\$500,000 and a property damage limit of \$300,000/\$300,000, naming the City as additional insured, as its interests may appear. Grantee shall also provide and maintain insurance under a broad form automobile policy, with \$100,000/\$300,000/\$100,000 coverage limits and worker's compensation insurance with statutory limits. All insurance shall be issued by a company authorized to do business in the State of Iowa and shall be provided before the Grantee, its successors or assigns thereof shall commence the construction or other operations mentioned in the chapter. The City shall notify the Grantee's representative or employee in the City, if any, within ten (10) days after the presentation of any demand or claim that may arise, whether by suit or otherwise, against the City. The Grantee shall

maintain on file with the Clerk at all times a current certificate of insurance. All insurance policies shall, if possible, provide for not less than thirty (30) days' notice of cancellation.

**113.07 PAYMENT TO CITY.** In consideration of the rights, privileges and franchise hereby granted, and as compensation to the City for the use of its public ways and places by the Grantee, and to properly regulate the activities of the Grantee, the Grantee shall, on or before the last day of January and the last day of July of each year, pay to the City a sum equal to three percent (3%) of the gross basic subscriber revenues for cable television service within the existing corporate limits of the City for the preceding six-month period ending on the last day of December and the last day of June, respectively. The City shall have the option to increase the fees Grantee pays to the City to a maximum of five percent (5%) of the gross basic subscriber revenues. In order to exercise such option, the City shall adopt a resolution providing for such increased fees, and the increase shall become effective ninety (90) days after written notice of the adoption of the resolution is provided to Grantee. The increase shall remain effective for the remainder of the term or renewal terms of the franchise. The books of the Grantee shall be open to inspection by authorized agents of the City at all reasonable times to verify the accuracy of the computation and correctness of the report which shall accompany the payment. Grantee shall keep books and records pursuant to established practices using generally accepted accounting procedures.

**113.08 FRANCHISE TERMINATION.** The City may terminate the franchise and all rights therein granted in the event the Grantee or its successors or assigns thereof shall fail to comply with any of the terms and conditions of this chapter. The City may exercise such right of termination by mailing notice thereof by registered mail or certified mail to the Grantee, unless within thirty (30) days after such mailing full compliance with the terms and conditions has been effected. Upon termination or forfeiture of its franchise, the Grantee shall, within a reasonable time, remove its cables, wires and appliances from the City streets, lanes, avenues, sidewalks, alleys bridges, highways, easements and other public places within the City, and shall restore such streets and other public places to their original condition.

**113.09 LOCAL OFFICE OR AGENT.** Grantee shall maintain a local office, agent or means whereby residents of the City may leave messages, complaints or requests for service or repairs or adjustments may be received by the Grantee at any time during normal business hours, all without any toll charges to any resident or customer.

**113.10 RENEWAL TERMS.** The initial term of this Agreement shall be renewed for three (3) successive five year terms unless either party provides written notice of its intent to terminate the franchise not less than one hundred and eighty (180) days prior to the expiration of the initial term or the expiration of any renewal terms.

*(Ch. 113 – Ord. 209 – Apr. 11 Supp.)*

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## CHAPTER 114

### WATER FRANCHISE

114.01 Purpose	114.07 Additions to Area of City
114.02 Grant of Franchise	114.08 Expansion of Grantee's Facilities
114.03 Term	114.09 Limitation of Franchise
114.04 Financing and Budget	114.10 Grantee's Separate Powers Not Limited
114.05 Adoption of Rules and Regulations	114.11 Assignment of Franchise
114.06 Enforcement of Mandatory Connection Ordinances	114.12 Forfeiture

**114.01 PURPOSE.** The purpose of this chapter is to set forth the terms and conditions of an agreement hereby made pursuant to the provisions of Chapter 28E of the Code of Iowa as a contract between the City and Regional Water, a 504A not-for-profit corporation, hereinafter referred to as "Grantee" for the co-operative operation, maintenance, repair, reconstruction and replacement of a public improvement, namely a water distribution system within the City.

**114.02 GRANT OF FRANCHISE.** The City hereby grants to Grantee, its successors and assigns a nonexclusive franchise to acquire the City's water treatment, storage and distribution system and thereafter to maintain, operate, repair, replace, renew, reconstruct, and remove a water distribution system across public property in the City in accordance with the laws and regulations of the United States of America, the State of Iowa, and the rules and regulations of Regional Water, including the nonexclusive right, privilege and authority to: (a) sell and supply treated water to individuals, corporations, communities and municipalities both inside and outside said City; (b) to use public property within the City; (c) to engage in such further activities within the City as may now or hereafter be consistent with the accepted principles applicable to the operation of a water distribution system. For the purpose of carrying into effect the privileges granted hereunder, the Grantee is authorized to make all necessary excavations in the streets, alleys, sidewalks, and public grounds within the corporate limits of City, but such excavations shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the rights of the public as may be feasible. Grantee shall restore all streets, alleys, sidewalks, and public grounds to the condition of safety, appearance and utility specified by the relevant construction industry standards after excavation.

**114.03 TERM.** The franchise is granted for an initial term of twenty-five (25) years commencing with the date of adoption of the Ordinance codified herein,<sup>†</sup> provided, however, that City may not withdraw from this agreement as long as Grantee shall have indebtedness to the United States Government incurred for the construction, reconstruction or maintenance of said water distribution system outstanding at that time. Thereafter, the franchise may be renewed for an additional term upon such terms and conditions as may be mutually acceptable to City and Grantee.

**114.04 FINANCING AND BUDGET.** Initial funding of this joint undertaking shall be from revenues of the water utility, the existing water utility account and accounts receivable of the City and from loans, grants, or notes obtained by Grantee, including Grantee's assumption of City's water utility debt. Said revenue bonds or notes shall mature in a period not to exceed

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<sup>†</sup> **EDITOR'S NOTE:** On June 8, 1999, the Council took final action to adopt Ordinance 148, granting a nonexclusive franchise to Regional Water and on July 20, 1999, the electorate voted its approval of said franchise.

forty years from the date of issuance, shall bear interest or combined interest and insurance charges, at a rate not to exceed that permitted by Chapter 74A, Code of Iowa, shall be payable only from revenue derived from the sale of treated water by the Grantee, and shall never become or be construed to be a debt against the State of Iowa, Pottawattamie County or the City of Underwood. Grantee shall have the responsibility for budgeting and administration of construction and operation of the water system.

**114.05 ADOPTION OF RULES AND REGULATIONS.** City hereby adopts and incorporates by reference the rules and regulations of the Grantee pertaining to construction, installation, repair, maintenance, and operation of the system.

**114.06 ENFORCEMENT OF MANDATORY CONNECTION ORDINANCES.** The City shall be responsible for enforcement of its ordinances relative to mandatory connection to the water utility. However, this authority shall not preclude Grantee from exercising any remedies available to it in enforcing its rights under this franchise agreement in law or equity.

**114.07 ADDITIONS TO AREA OF CITY.** The Grantee shall, on subsequent additions of areas to City, either by annexation, consolidation or otherwise, surrender all franchises held by Grantee in such areas, such surrender being deemed to take place on the occurrence of any such event. Grantee shall thereafter be subject to the provisions of the franchise granted by this chapter as to all such areas; provided, however, should the franchise be declared invalid or rendered inoperative by a judgment, decree or order of a court of competent jurisdiction which, being binding hereon, becomes final for all purposes. The franchises hereby surrendered shall thereafter have the same force and effect as if such surrender had not occurred.

**114.08 EXPANSION OF GRANTEE'S FACILITIES.** Any facilities and appurtenances in streets, alleys, and public places, incidental to the franchised system that have been, or are at any future time acquired, leased, or utilized in any manner by Grantee are thereupon to be deemed authorized by and shall be subject to all the provisions of the franchise.

**114.09 LIMITATION OF FRANCHISE.** No privilege or exemption is granted or conferred by the franchise except those specifically prescribed herein. Any privilege claimed under the franchise by Grantee in any street, alley, or other public place shall be subordinate to any lawful occupancy of same by City or by any other public agency, and to prior lawful occupancy of same by any other entity or person.

**114.10 GRANTEE'S SEPARATE POWERS NOT LIMITED.** Notwithstanding the foregoing limitations, nothing in this agreement shall be deemed a limitation of Grantee's separate powers as set forth in Chapter 504A of the Code of Iowa or any other relevant provision of the Code of Iowa and other applicable law.

**114.11 ASSIGNMENT OF FRANCHISE.** Grantee shall not have the right to sell or lease the franchise within a two-mile radius of the City, except on prior written approval by ordinance of the City Council. This section shall not be deemed a limitation upon the Grantee's power and authority to pledge revenues derived from the franchise or assets of the distribution system acquired under this agreement as collateral with the United States of America, acting through Rural Development (formerly the Farmers Home Administration), its successor agencies or any other lender. Grantee does, in fact, hereby pledge and assign to the United States of America, acting through Rural Development and its successor agencies its rights under this contract as additional collateral.

**114.12 FORFEITURE.** The franchise may be forfeited, at the option of the City, upon failure or refusal by Grantee to observe the terms and conditions set forth herein. Forfeiture may be exercised by written notice to Grantee of failure to observe the terms and conditions hereof, followed by Grantee's refusal to eliminate or correct such failure or violation within one year. In the event of any failure or violation, City may sue in its own name in the manner provided by law for the forfeiture of the franchise and the exercise of such remedy of forfeiture shall not preclude exercise of any other right or remedy given to the City by law, whether exercised concurrently or subsequently.

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## CHAPTER 115

### CEMETERY

115.01 Definition  
115.02 Trusteeship  
115.03 Cemetery Superintendent  
115.04 Duties of Superintendent

115.05 Records  
115.06 Sale of Interment Rights  
115.07 Perpetual Care  
115.08 Rules and Regulations

**115.01 DEFINITION.** The term “cemetery” means the Fischer 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 CEMETERY SUPERINTENDENT.** The Cemetery Superintendent shall operate the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.

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

**115.04 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.

**115.05 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.

**115.06 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)*

**115.07 PERPETUAL CARE.** The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the Code of Iowa.

*(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)*

**115.08 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)*

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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 & 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 & 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense

alcoholic liquor, beer or wine between the hours of 8:00 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 8:00 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 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. 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 which has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess or otherwise supply a machine which 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 twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

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

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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, this definition is not to be construed to include cigars.
3. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
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.

*(Ord. 222 – June 15 Supp.)*

#### **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.

*(Ord. 222 – June 15 Supp.)*

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit

issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

*(Code of Iowa, 453A.13 & 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three 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 sixty (60) days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

*(Ord. 222 – June 15 Supp.)*

**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. *(Ord. 222 – June 15 Supp.)*

*(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 thirty (30) days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

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 "Typical" fees are found at samples\misc\fees.doc

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. For one day or any part thereof ..... \$ 25.00
2. For more than one day up to one week..... \$ 25.00 per day
3. For one week ..... \$ 175.00
4. For more than one week but not more than one month ..... computed as above
5. For one month ..... computed as above
6. For longer than one month, all fees shall be computed by first computing the monthly fee, then the weekly fee, then the daily fee and the sum of these fees shall be the fee charged.

**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.** After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.14 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.17 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**122.18 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the local School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period

during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

## CHAPTER 123

### ADULT ENTERTAINMENT

#### 123.01 Definitions

#### 123.02 Regulations

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

1. “Adult amusement or entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
2. “Adult book store or gift shop” is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.
3. “Adult hotel or motel” means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.
4. “Adult photo studio” is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined herein.
5. “Adult theater” is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the patrons therein.
6. “Adult uses” includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.
7. “Massage parlor” is any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician’s direction, physical therapist, podiatrist, registered speech pathologist and physical or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician’s direction, whether with or without the use of mechanical, therapeutic or bathing devices, and includes Turkish bath houses. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

8. "Specified anatomical areas" means less than completely and opaquely covered human genitalia, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state – even if completely and opaquely covered.
9. "Specified sexual activities" means patently offensive acts, exhibitions, representations, depictions or descriptions of:
  - A. Human genitals in a state of sexual stimulation or arousal;
  - B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;
  - C. Intrusion, however, slight, actual or simulated, by an object, of any part of an animal's body or any part of a person's body into the genital or anal openings of any person's body;
  - D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated;
  - E. Flagellation, mutilation or torture, actual or simulated, in a sexual context.

#### **123.02 REGULATIONS.**

1. **Location.** An adult use shall not be located within 1,000 feet of another adult use, nor shall the adult use be located within 1,000 feet of any public or parochial school, regularly scheduled school bus stop, licensed day care facility, church, public park, or any dwelling (one-family, two-family or multiple dwelling) or within 1,000 feet of City Hall. The 1,000-foot restriction shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial school, licensed day care facility, church, public park, dwelling or City Hall, by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.
2. **Concealment.** All building openings, entries, windows, etc., of an adult use 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.
3. **Minors.** No minor shall be permitted in any establishment in which adult uses are permitted.
4. **Alcohol.** No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the Code of Iowa. This prohibition applies equally to the proprietor and the patrons of the establishment involved.
5. **Public Exposure.** Except as hereinafter provided, no person shall expose those parts of his or her body which are hereinafter listed to another in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place:
  - A. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.

B. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This subsection does not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or such other places where such exposures occur incident to the prescribed use of those facilities. This subsection also does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

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## CHAPTER 124

### HOTEL/MOTEL TAX

124.01 Tax Imposed  
124.02 Use of Funds

124.03 Effective Date and Tax Imposition

**124.01 TAX IMPOSED.** A tax of 7% shall be and same is hereby imposed upon the gross receipts from the renting of 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, with or without meals except for sleeping rooms provided for 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. This tax shall only apply within the corporate boundaries of Underwood, Iowa.

**124.02 USE OF FUNDS.** Revenues derived from this tax shall be used as follows:

1. Not less than 50% shall be used to design, and construct, and maintain the corridors from the Interstate 80 into downtown, parks, trails and entertainment in the city of Underwood, Iowa.
2. Not more than 50% thereof shall be expended by the City of Underwood for city operations authorized by law.

**124.03 EFFECTIVE DATE AND TAX IMPOSITION.** This chapter shall be in full force and effect from and after its final passage, approval, and publication as provided by law, and upon ratification by a majority of the eligible electors for the city of Underwood, Iowa, voting on the question of imposition as provided by Section 422A.1 of the *Code of Iowa*. The tax shall be imposed beginning on the 1<sup>st</sup> day of January 2014, following the required notice of at least 45 days to the Director of Revenue and Finance as provided by Section 422A.1 of the *Code of Iowa*.

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Maintenance of Parking or Terrace
135.04 Playing In	135.11 Failure to Maintain Parking or Terrace
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 therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit 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.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for

the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

## CHAPTER 136

### SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Awnings
136.04 Responsibility for Maintenance	136.13 Encroaching Steps
136.05 City May Order Repairs	136.14 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.15 Fires or Fuel on Sidewalks
136.07 Permit Required	136.16 Defacing
136.08 Sidewalk Standards	136.17 Debris on Sidewalks
136.09 Barricades and Warning Lights	136.18 Merchandise Display
	136.19 Sales Stands

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
  - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material

supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

**136.15 FIRES OR FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

## CHAPTER 137

### VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

*(Code of Iowa, Sec. 364.7)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

*(Code of Iowa, Sec. 174.15[2] & 364.7[3])*

*(Ord. 203 – Mar. 10 Supp.)*

## EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

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**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

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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 Underwood, 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

### CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power  
140.02 Definition  
140.03 Right of Access Limited  
140.04 Access Controls Imposed

140.05 Unlawful Use of Controlled Access Facility  
140.06 Permitted Access Points  
140.07 Speed Limits  
140.08 Parking Restricted

**140.01 EXERCISE OF POLICE POWER.** This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

*(Code of Iowa, Sec. 306A.1)*

**140.02 DEFINITION.** The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

*(Code of Iowa, Sec. 306A.2)*

**140.03 RIGHT OF ACCESS LIMITED.** No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

*(Code of Iowa, Sec. 306A.4)*

**140.04 ACCESS CONTROLS IMPOSED.** There are hereby fixed and established controlled access facilities within the City, described as follows:

*(Code of Iowa, Sec. 306A.3)*

1. Project No. F-309. On the Primary Road System extension improvement, Project No. F-309, Primary Road No. 64, within the City, described as follows:

*From Station 561+64.0 (SCL) to Station 590+69.7 = Station 2+73.9  
and from Station 2+73.9 to Station 30+28.0 (NCL)*

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-309, on file in the office of the Clerk.

**140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY.** It is unlawful for any person to:

*(Code of Iowa, Sec. 306A.3 and 321.366)*

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.

3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

**140.06 PERMITTED ACCESS POINTS.** Points of access are hereby permitted as follows:

*(Code of Iowa, Sec. 306A.4)*

1. Project No. F-309. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-309 is hereby recorded as follows:

STATION	SIDE OF STREET	CURB ENTRANCE		
		CURB OPENING WIDTH	WIDTH	USE OF ENTRANCE
561+65	Right		30 feet	Joint Field
561+65	Left		30 feet	Joint Field
572+50	Left		45 feet	Street Connection
573+04	Right		35 feet	Commercial
574+30	Right		24 feet	Residential
576+54	Right		24 feet	Residential
576+64	Left		45 feet	Street Connection
579+01	Right		24 feet	Residential
580+00	Right		20 feet	Field
584+75	Left		45 feet	Street Connection
587+26	Right		30 feet	Street
3+47	Left	30 feet		Street
3+47	Right		35 feet	Street
4+91	Left	45 feet		Joint Commercial
6+39	Left	45 feet		Joint Commercial
7+24	Left	45 feet		Joint Commercial
7+79.6	Right		30 feet	Street
7+96	Left	24 feet		Alley
9+67	Right		25 feet	Alley
10+26	Left	30 feet		Joint Residential
11+71	Left	25 feet		Street
11+71	Right		30 feet	Street
15+64	Left	35 feet		Commercial
17+22	Right		40 feet	Street
18+22.4	Left	30 feet		Street
24+74	Left		18 feet	Farm
24+74	Right		24 feet	Field

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samples/misc/contacc.doc

**140.07 SPEED LIMITS.** The maximum speed limits on Project No. F-309 are hereby established as follows:

1. 55 mph from Station 561+64.0 to Station 589.00;
2. 35 mph from Station 589+00 to Station 590+69.7 = Station 2+73.9;
3. 35 mph from Station 2+73.9 to Station 20+00;
4. 55 mph northbound from Station 20+00 to Station 30+28;
5. 45 mph southbound from Station 30+28 to Station 20+00.

**140.08 PARKING RESTRICTED.** The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.
3. Project No. F-309. Parking of any nature is prohibited on Project No. F-309 in any of the following specifically designated locations:
  - A. Iowa No. 64, on both sides, from Station 561+64.0 to Station 590+69.7 = 2+73.9.

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## CHAPTER 145

### DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish; Municipal Infraction  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Building Inspector is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF UNDERWOOD, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost

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<sup>†</sup> **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.02 Conversion to Real Property

### 146.03 Foundation Requirements

**146.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
(*Code of Iowa, Sec. 435.1*)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(*Code of Iowa, Sec. 435.26 & Sec. 435.35*)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

*(Code of Iowa, Sec. 103A.10 & 414.28)*

## CHAPTER 147

### WELLHEAD PROTECTION

147.01 Purpose  
147.02 Definitions  
147.03 Establishment of Wellhead Protection Zone

147.04 Permitted Uses  
147.05 Prohibited Uses  
147.06 Administration

**147.01 PURPOSE.** The purpose of this chapter is to insure the provision of a safe and sanitary drinking water supply for the City by the establishment of wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

**147.02 DEFINITIONS.** When used in this chapter the following words and phrases shall have the meanings given in this section:

1. "Hazardous waste or material" means any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:
  - A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - B. Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of or otherwise managed.
2. "Regulatory agency" means any governmental agency with jurisdiction over hazardous waste as defined herein.
3. "Sanitary landfill" means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
4. "Wellhead" means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

**147.03 ESTABLISHMENT OF WELLHEAD PROTECTION ZONE.** There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle, the center of which is the center of any City water supply wellhead and the radius of which is 1,320 feet, or any part thereof which the City has jurisdiction.

**147.04 PERMITTED USES.** The following uses shall be permitted within wellhead protection zones:

1. Any use permitted within existing agricultural, single-family residential, multi-family residential and commercial districts, so long as uses conform to the rules and regulations of the regulatory agencies.
2. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

**147.05 PROHIBITED USES.** The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 147.04 of this chapter unless such uses are approved or permitted by State and Federal Regulatory Agencies:

1. Surface use or storage of hazardous material, including commercial use of agricultural pesticides;
2. Septic tanks or drain fields appurtenant thereto;
3. Impervious surfaces other than roofs of buildings, and streets, parking lots, driveways and walks serving buildings permitted under Section 147.04 of this chapter;
4. Sanitary landfills;
5. Hazardous waste disposal sites;
6. Storm water infiltration basins;
7. Underground storage tanks;
8. Sanitary sewer lines within 100 feet of a wellhead.

**147.06 ADMINISTRATION.** The policies and procedures for administration of any wellhead protection zone established under this chapter, including without limitation those applicable to nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the City.

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## CHAPTER 150

### BUILDING NUMBERING

150.01 Definitions  
150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.  
*(Code of Iowa, Sec. 364.12[3d])*
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.  
*(Code of Iowa, Sec. 364.12[3d])*
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.  
*(Code of Iowa, Sec. 364.12[3h])*

**150.03 BUILDING NUMBERING PLAN.** Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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## CHAPTER 151

### TREES

151.01 Definition  
151.02 Planting Restrictions  
151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised  
151.05 Disease Control  
151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb.
2. Spacing. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm or evergreen.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The

Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within 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])*

## CHAPTER 152

### SWIMMING POOL ENCLOSURES

152.01 Definition  
152.02 Location

152.03 Enclosure of Swimming Pool  
152.04 Enforcement

**152.01 DEFINITION.** The term “swimming pool” as used in this chapter shall mean any structure intended for swimming, recreational bathing, or wading that has the capacity of containing water with the depth of twenty-four (24) inches or more, and shall include, but not be limited to, in-ground, above-ground and on-ground pools, hot tubs, or spas, and regardless of whether the structure is permanent, temporary or inflatable.

**152.02 LOCATION.** All swimming pools located in residential districts shall be located in conformity with all set back requirements for accessory uses in the zoning district in which the pool is located.

**152.03 ENCLOSURE OF SWIMMING POOL.** Every outdoor swimming pool shall be completely surrounded by a fence or wall not less than fifty-four (54) inches in height and at least four (4) feet from each side of the pool. Such fence or wall shall be constructed sufficiently strong and of such structural design as to make the pool inaccessible to small children. There shall not be a distance greater than ten (10) feet between fence posts. The provisions of this section are applicable to all types of swimming pools, whether permanent, temporary, or movable in nature, provided said pool is more than twenty-four (24) inches in depth and the water is contained in the pool for more than twenty-four (24) consecutive hours.

**152.04 ENFORCEMENT.** No person shall maintain or use a swimming pool, unless the property in which the swimming pool is located conforms to the requirements of this chapter. In the event any swimming pool is found not to comply with the terms of this chapter, it shall constitute a nuisance within the definition of Chapter 50 of this Code of Ordinances and the City may invoke remedies and penalties provided by said chapter.

*(Ch. 152 – Ord. 189 – Apr. 08 Supp.)*

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## CHAPTER 155

### BUILDING CODE

155.01 Short Title  
155.02 Adoption of State Building Code

155.03 Construction Fees  
155.04 Demolition of Buildings and Structures

**155.01 SHORT TITLE.** This chapter shall be known as the City of Underwood, Iowa, Building Code, and may be cited as such, and is referred to herein as “this chapter.”

**155.02 ADOPTION OF STATE BUILDING CODE.** Pursuant to published notice and public hearing, as required by law, the *Iowa State Building Code*, promulgated pursuant to Chapter 103A of the Code of Iowa is hereby adopted by reference. Official copies of the Iowa State Building Code, the standard codes adopted therein, and a certified copy of this chapter are on file in the office of the Clerk. Certified copies of this chapter are also on file in the office of the State Building Code Commissioner.

*(Code of Iowa, Sec. 103A.12 and Sec. 380.10)*

**155.03 CONSTRUCTION FEES.** All persons or entities intending to perform new construction shall obtain a building permit from the City of Underwood. Construction fees, including, but not limited to, building permit fees and inspection fees, plan reviews, electrical permit fees, mechanical permit fees, plumbing permit fees, and grading plan permit and review fees shall be determined and established by the City Council by way of resolution.

*(Ord. 188 – Apr. 08 Supp.)*

**155.04 DEMOLITION OF BUILDINGS AND STRUCTURES.** The provisions of this section shall apply to the demolition of every building or structure or any appurtenances connected or attached to such building or structure. The purpose of this section is to establish the minimum requirements to safeguard the public health, safety, general welfare of life and property from hazards attributed to the demolition environment.

1. **Permit Required.** Any owner or authorized agent who intends to demolish any building or structure shall first make application to the building official and obtain the required demolition permit.
2. **Demolition Fee.** The fee for a permit to demolish any one building or structure, or any portion thereof, shall be as set out in the “Schedule of Fees” Section 155.03 of this Code of Ordinances.
3. **Filling of Open Basement or Cellar Cavity.** Any open basement or cellar cavity remaining after demolition of any building or structure or any portion thereof and removal of all debris from same shall be inspected first then filled to ground or grade level with clean fill. The requirement for removal of all of the footing/foundation may be waived in writing by the building official.
4. **Time.** The demolition permit is valid for six months after issuance. The allowable time from commencement of the demolition to finishing filling/leveling the lot shall be accomplished within ten (10) calendar days, unless time limit is extended in writing by building official.

5. Fencing. The building or structure shall be entirely fenced when unattended from start to finish of the project for the protection of the public.
6. Utilities. All utilities shall be properly terminated at the property line. An inspection shall be made of the utility terminations.
7. Building Upon an Existing Condition. In the event a building or structure has been removed from the premises upon which same has been situated and there remains a basement, foundation, pit, depression, or excavation at the site of such removal and the construction of a new building or structure thereof is contemplated, the building division at the request of the owner thereof shall have the right, at the discretion of the building official, to permit the owner to maintain the basement, foundation, pit, depression, or excavation for a period not to exceed one month from the date of such removal, provided same is maintained in safe and sanitary condition, is kept clean of all rubbish and debris, is surrounded and protected by a strong and suitable barricade at least four feet in height, and in a sound and proper condition, and that the owner shall covenant and agree, in writing, for himself and on behalf of his or her heirs, executors, administrators, successors and assigns, to cause same to be properly filled at the conclusion of the one month period in the event the construction of a building or structure has not been commenced by the end of the period.
8. Insurance Required. A demolition contractor shall furnish to the City Clerk a certificate of insurance, subject to approval by the City Attorney, evidencing commercial general liability insurance coverage or its equivalent in the minimum amount of one million dollars (\$1,000,000.00) per occurrence for bodily injury, including death or damage to property of others, arising out of work performed or responsibilities assumed under the license. The aggregate limit shall be no less than one million dollars (\$1,000,000.00). In addition, the demolition contractor shall furnish a certificate of insurance, subject to approval by the City Attorney, evidencing worker's compensation insurance sufficient to satisfy the laws of the State of Iowa; employer's liability insurance in the minimum amount of one hundred thousand dollars (\$100,000.00); and auto liability insurance in the minimum amount of one million dollars (\$1,000,000.00). These limits may be provided by any combination of primary and excess policies. The insurance company shall endeavor to provide thirty (30) days' notice of cancellation or non-renewal to the City Clerk.

*(Ord. 199 – Oct. 09 Supp.)*

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## CHAPTER 160

### FLOOD PLAIN REGULATIONS

160.01 Purpose	160.12 Flood Plain Development Permit Required
160.02 Definitions	160.13 Application for Permit
160.03 Lands to Which Chapter Applies	160.14 Action on Application
160.04 Compliance	160.15 Construction and Use to Be as Provided in Application and Plans
160.05 Abrogation and Greater Restrictions	160.16 Variances
160.06 Interpretation	160.17 Factors Upon Which the Decision to Grant Variances Shall be Based
160.07 Warning and Disclaimer of Liability	160.18 Conditions Attached to Variances
160.08 General Flood Plain Management Standards	160.19 Nonconforming Uses
160.09 Special Floodway Standards	160.20 Amendments
160.10 Special Shallow Flooding Areas Standards	
160.11 Administration	

**160.01 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 flood losses with provisions designed to:

1. Restrict Use. 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.
2. Vulnerable Uses Protected. 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.
3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure."
5. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on

which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.

6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also 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.

8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “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.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.08(4)(A); and
  - B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and
  - D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than \$500.00.
20. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after February 4, 2005.
21. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

22. "100-Year Flood" means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.
23. "Recreational vehicle" means a vehicle which is:
- A. Built on a single chassis;
  - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
24. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window pane;
  - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
25. "Special flood hazard area" means the land within a community subject to the "100-year flood." This land is identified as Zone A, AE, A1-A30, AO, and AH on the City's Flood Insurance Rate Map.
26. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
27. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

28. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
29. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:
- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."
  - B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after February 4, 2005, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.
30. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.
31. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

**160.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Pottawattamie County and Incorporated Areas, City of Underwood, Panels 19155C0268F, 0275F dated April 16, 2013, which were prepared as part of the Pottawattamie County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Pottawattamie County Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering flood plain management regulations.

**160.04 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.

**160.05 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

**160.06 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 Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**160.07 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 areas of significant flood hazard 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.

**160.08 GENERAL FLOOD PLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the 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 100-year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the areas of significant flood hazard shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, 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 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 100-year flood; and that the

structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. Fully enclosed areas below the “lowest floor” (not including basements) 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 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 that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

- B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
- C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
- D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 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 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 (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard.
11. Accessory Structures.
- A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:
- (1) The structure shall not be used for human habitation.
  - (2) The structure shall be designed to have low flood damage potential.
  - (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
    - (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.
  - B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
- 12. Recreational Vehicles.
  - A. Recreational vehicles are exempt from the requirements of Section 160.08(5) of this chapter 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 Section 160.08 (5) of this chapter regarding anchoring and elevation of factory-built homes.
- 13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

**160.09 SPECIAL FLOODWAY STANDARDS.** In addition to the general flood plain standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the flood insurance study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- 1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. 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.
- 2. All uses within the floodway shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.

- C. Use construction materials and utility equipment that are resistant to flood damage.
- 3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
- 4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general flood plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
- 5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
- 6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
- 7. Watercourse alterations or relocations (channel changes and modifications) 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.
- 8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
- 9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

**160.10 SPECIAL SHALLOW FLOODING AREAS STANDARDS.** In addition to the general flood plain standards, uses within shallow flooding areas must meet the following applicable standards.

- 1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.
- 2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.
- 3. In shallow flooding areas designated as either an AH or AO Zone on the Floor Insurance Rate Map, drainage paths are required around structures on slopes to adequately guide water away from structures.

**160.11 ADMINISTRATION.** The Building Inspector shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

- 1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures.
4. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

**160.12 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED.** A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

**160.13 APPLICATION FOR PERMIT.** Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

**160.14 ACTION ON APPLICATION.** The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

**160.15 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS.** Flood Plain Development Permits, issued 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, that the finished fill, building 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.

**160.16 VARIANCES.** The Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year 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.
3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
5. Approval. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

**160.17 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

**160.18 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed in Section 160.17, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

**160.19 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
  - A. If such use is discontinued for six (6) 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 fifty percent (50%) 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.

**160.20 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 from the Department of Natural Resources.

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# CHAPTER 165

## ZONING REGULATIONS

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## CHAPTER 170

### SUBDIVISION REGULATIONS

#### GENERAL PROVISIONS

170.01 Title and Purpose  
170.02 Definitions  
170.03 Policy  
170.04 Application and Jurisdiction  
170.05 Interpretation

170.06 Action Under Prior Provisions  
170.07 Variations and Exceptions  
170.08 Changes and Amendments  
170.09 Enforcement, Violations and Penalties

**170.01 TITLE AND PURPOSE.** The chapters numbered 170 through 172 of this Code of Ordinances shall be known and may be cited as “The City of Underwood, Iowa, Subdivision Regulations.” The purpose of these regulations is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare.

**170.02 DEFINITIONS.** For use in the Subdivision Regulations, the following terms or words are defined.

1. “Alley” means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
2. “Applicant” means the owner of land to be subdivided or said owner’s representative.
3. “Block” means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines or waterways, or corporate boundaries.
4. “Bond” means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council.
5. “Building” means any structure built for support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and includes any structure.
6. “Central Water System” means a private water system established by the developer to serve a new subdivision or resubdivision. It includes water treatment and distribution facilities.
7. “Central Sewage System” means a private sewer system including collection and treatment facilities established by the developer to serve a new subdivision or resubdivision.
8. “City Engineer” means the person designated by the Council to furnish engineering assistance for the administration of these regulations.
9. “Commission” means the Planning and Zoning Commission of the City.
10. “Cul-de-sac” means a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.

11. "Developer" means the owner of land proposed to be subdivided (or said owner's representative).
12. "Easement" means an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said person's property.
13. "Frontage" means that portion of a lot abutting on a street or way and complying with the setback and front yard requirements as they may exist, however, the longer side shall not be considered as the frontage of a corner lot.
14. "Individual sewage disposal system" means a private septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.
15. "Local board of health" means a county, city or district board of health.
16. "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.
17. "Municipal arterial streets" means those streets which connect principal traffic generating areas or connect such areas with other street systems.
18. "Municipal collector streets" mean those streets that collect traffic from municipal service streets and connect to other street systems.
19. "Municipal service streets" means those streets that primarily provide access to property.
20. "Owner" means any person having legal title to or sufficient proprietary interest in the land to be sought to be subdivided under these regulations.
21. "Plat" means a map, drawing or chart on which the developer's plan of the subdivision of land is presented and which the developer submits for approval and intends, in final form, to record.
22. "Public improvement" means any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established.
23. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
24. "Roadway" means that portion of the street available for vehicular traffic and where curbs are laid, the portion from back to back of curbs.
25. "Street" means and includes any public way, highway, street, avenue, boulevard, parkway or other public thoroughfare, and each of such words includes every other of them, and also includes the entire width between property lines.

26. “Subdivider” means the person undertaking the subdivision or resubdivision of a tract or parcel of land.

27. “Subdivision” means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

28. “Surveyor” means a land surveyor licensed and registered under the provisions of Chapter 542B of the Code of Iowa.

**170.03 POLICY.** It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the City to provide for the orderly, efficient and economical development of the City. And further:

1. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
2. Regulations to Supplement and Facilitate. It is intended that these subdivision regulations shall supplement and facilitate the enforcement of provisions and standards, ordinances or regulations of the City.

**170.04 APPLICATION AND JURISDICTION.** Every owner (or agent) of any tract or parcel of land lying within the City or, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles of the corporate limits of the City who has subdivided or shall hereafter subdivide the same into three (3) or more parts for the purpose of laying out an addition, subdivision, building lot or lots, or acreage lots, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

**170.05 INTERPRETATION.** In their interpretation or application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Specifically:

1. Relationship to Other Public Provisions. These regulations are not intended to interfere with or to abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
2. Relationship to Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern.

**170.06 ACTION UNDER PRIOR PROVISIONS.** These regulations do not abate any action now pending under or by virtue of prior existing subdivision regulations. Nor do they discontinue, abate, modify or alter any penalty accrued or about to accrue or affect the liability

of any person or waive any right of the City under any section or provision existing at the time of adoption of these regulations. Nor do they vacate or annul any rights obtained by any person by lawful action of the City except as expressed in these regulations.

**170.07 VARIATIONS AND EXCEPTIONS.** The following shall apply to the granting of variations and exceptions:

1. Hardships. Where the Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:
  - A. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
  - B. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property.
  - C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
  - D. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.
2. Conditions. In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
3. Procedure for a Variance. A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

**170.08 CHANGES AND AMENDMENTS.** Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Commission for study and recommendation before the hearing is held. The Commission shall forward its recommendations to the Council within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment.

**170.09 ENFORCEMENT, VIOLATIONS AND PENALTIES.** No plat or subdivision within the City or within two (2) miles thereof shall be filed or recorded with the County, nor shall any plat or subdivision have any validity until it complies with the provision of these regulations, has been approved by the Council as herein set forth, and further:

1. Issuance of Building Permits. No more than two (2) building permits for each separate tract existing at the time of the effective date of these regulations shall be issued unless the tract has been platted in accordance with these regulations; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by applicable land use regulations such as zoning and restricted residence regulations or additions or improvements to a main or accessory building already legally located upon said tract.
2. Sale or Lease without Plat. Any person who shall dispose of or offer for sale or lease any lots in the City or addition to the City, until the plat thereof has been acknowledged and recorded as provided in these regulations, shall forfeit and pay fifty dollars (\$50.00) for each lot and part of lot sold or disposed of, leased or offered for sale.

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## CHAPTER 171

# SUBDIVISION REGULATIONS PROCEDURES

171.01 Procedure	171.13 Requirements of the Final Plat
171.02 Pre-Submission Consultations	171.14 Submission of Final Plat
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171.04 Submission of Preliminary Plat	171.16 Action by the Commission on Final Plat
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171.06 Review of Preliminary Plat	171.18 Resubdivision of Land
171.07 Action by the Commission on Preliminary Plat	171.19 Completion of Improvements
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171.10 Completion of Improvements	171.22 Release or Reduction of Performance Bond
171.11 Performance Bond	171.23 Maintenance of Improvements
171.12 Final Plat	171.24 Issuance of Certificates of Occupancy

**171.01 PROCEDURE.** In obtaining final approval of a proposed subdivision by the Council, the subdivider shall submit a preliminary plat in accordance with the requirements of Section 171.03 and install the required improvements or provide a performance bond.

**171.02 PRE-SUBMISSION CONSULTATIONS.** Prior to the submission of the preliminary plat of any subdivision, the subdivider is encouraged to meet with the City Engineer and other City officials responsible for the administration of these regulations to be advised of the procedural steps, design standards, required improvements and platting requirements. During such meetings, no commitments shall be made which will be binding upon the City.

**171.03 REQUIREMENTS OF PRELIMINARY PLAT.** Every proposed subdivision shall be submitted for tentative approval in the form of a preliminary plat prior to the submission of a final record plat. The purpose of the preliminary plat and accompanying material is to provide all facts needed for the Commission and Council to determine whether the proposed subdivision is satisfactory from the standpoint of the public interest. The following graphic and descriptive material is required to be provided on the preliminary plat and on the accompanying material.

1. Contents of Preliminary Plat. The preliminary plat shall be prepared by a registered land surveyor at a convenient scale of not more than one inch equals one hundred feet (1" = 100'), may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one sheet is used. The following information shall be shown on the preliminary plat:
  - A. Title, scale, north point and date.
  - B. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners. Exterior boundaries are to be indicated with a solid heavy line.
  - C. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights, fire hydrants and street signs.

- D. Proposed layout of blocks and lots, showing dimensions, radii, chords and the square foot areas of lots that are not rectangular, and the lot and block numbers in numerical order.
  - E. Building setback or front yard lines.
  - F. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
  - G. Present and proposed easements, showing locations, widths, purposes and limitations.
  - H. Location and names of adjoining parcels of unsubdivided and subdivided land.
  - I. Boundaries of the highest known flood of record affecting the subdivision and the source of information.
  - J. If the proposed subdivision borders on a lake or stream, the distances and bearings of meander lines established not less than twenty (20) feet back from the mean high water mark of the lake or stream.
  - K. Existing blocks, lots and buildings.
  - L. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each. If the subdivision is within one mile of public sewer or water or both, notation shall be made of the direction and distance to such facilities.
  - M. Proposed name of the subdivision.
  - N. Names and addresses of the owner, subdivider, builder and surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat.
  - O. Official legal description of the property being platted.
  - P. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater, unless the Council waives this requirement.
  - Q. Existing and proposed zoning of the proposed subdivision and adjoining property.
  - R. Location of all proposed monuments.
2. Information to Be Provided in Accompanying Material. The following information shall accompany a plat when filing:
- A. A complete listing of all existing covenants which apply to the land to be subdivided, and a complete listing of all covenants which are proposed by the developer to apply to the subdivided land.
  - B. A table of the following information:
    - (1) Total acreage of the subdivision.
    - (2) Total number of lots.

- (3) Minimum, average and maximum lot area.
- (4) Acreage of public lands to be dedicated or reserved other than streets.

C. An attorney's opinion showing that the fee title to the property proposed for subdividing is in the owner's name as shown on the plat and showing any encumbrance that may exist against the land.

D. If any portion of the subdivision is to have access on a State or County jurisdictional street, a written and signed statement acknowledging and permitting the access by the duly authorized official of the appropriate jurisdiction.

E. Specifications and engineering construction drawings including profiles, cross-sections, and details of all public improvements. Elevations shall be referred to mean sea level as exhibited in standard U.S. Geological Survey Maps. Specifications and references shall meet those required by the City's construction and specification standards, including a site grading plan for the entire subdivision.

**171.04 SUBMISSION OF PRELIMINARY PLAT.** The subdivider shall prepare a preliminary plat in accordance with the provisions of Section 171.03 and shall file with the Clerk an application in triplicate for the tentative approval of the plat. The application shall:

- 1. Forms and Fees. Be made on forms available from the Clerk together with a fee of fifty dollars (\$50.00) per lot.
- 2. Number of Plats. Be accompanied by a minimum of ten (10) copies of the preliminary plat.
- 3. Time of Submission. Be presented to the Clerk at least four (4) weeks prior to the meeting of the Commission.

**171.05 REFERRAL OF PRELIMINARY PLAT.** The Clerk shall immediately refer two (2) copies of the preliminary plat to the City Engineer and seven (7) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the preliminary plat to the County Board of Supervisors.

**171.06 REVIEW OF PRELIMINARY PLAT.** The preliminary plat shall be reviewed by the Commission to determine its conformity with these regulations and all other ordinances and regulations in force affecting subdivisions. Copies of the preliminary plat may be transmitted to other City or school officials, as the Commission deems necessary, for their recommendations concerning matters within their jurisdiction. Their recommendations, along with those of the City Engineer, shall be transmitted to the Commission within three (3) weeks after the date the plat is filed. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made.

**171.07 ACTION BY THE COMMISSION ON PRELIMINARY PLAT.** The Commission, as soon as possible, but within thirty (30) days after receiving the preliminary plat, shall pass upon the preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time period, not

to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. Reasons for Changes or Disapproval. In the event that substantial changes or modifications are made by the Commission or the Commission recommends disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. Tentative Approval. If the Commission recommends approval, it shall express its approval as "Tentative Approval" and state the conditions of such approval, if any.
3. Documenting Approval. The action of the Commission shall be documented on seven (7) copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one copy shall be retained by the Commission, and five (5) copies shall be referred to the Council.

**171.08 ACTION BY COUNCIL ON PRELIMINARY PLAT.** Within thirty (30) days of its receipt of the preliminary plat, the Council shall, by resolution, tentatively approve or disapprove the plat. The resolution shall direct the Mayor and Clerk to certify the resolution and affix it to the plat. If the preliminary plat is disapproved, objections to it shall be returned to the Commission for further review and the Clerk shall notify the subdivider of such action. If approved, the Clerk shall sign five (5) copies of the preliminary plat along with the notation of the date the preliminary plat received the Council's tentative approval. One copy shall be returned to the Commission and three (3) copies shall be returned to the subdivider. The "Tentative Approval" by the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

**171.09 EFFECTIVE PERIOD OF TENTATIVE APPROVAL.** The tentative approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval must have been obtained. Any plat not receiving final approval within this period of time shall be void, and the subdivider shall be required to resubmit a new plat for tentative approval subject to all new zoning restrictions and subdivision regulations.

**171.10 COMPLETION OF IMPROVEMENTS.** Before the Council will approve the final plat, all of the required improvements shall be constructed and either accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

**171.11 PERFORMANCE BOND.** The completion requirement for improvements may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat. However, 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. Such performance bond shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution. Upon recommendation of the Commission, the Council may extend the completion date set forth in the bond for a maximum period of one additional year.

**171.12 FINAL PLAT.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved

preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

**171.13 REQUIREMENTS OF THE FINAL PLAT.** The following graphic and descriptive material is required to be provided on the final plat and in the accompanying material.

1. Contents of the Final Plat. Every plat of a subdivision offered for record shall conform to all of the following provisions where applicable:
  - A. The plat shall be a permanent copy or a photographic print made on a stable plastic film. Exact copies of the plat to be recorded shall be provided to and filed with the County Recorder, Assessor and Auditor. The original plat drawing shall remain the property of the registered land surveyor.
  - B. The size of each sheet showing any portion of the subdivided lands shall not be greater than eighteen (18) inches by twenty-four (24) inches nor less than eight and one-half (8½) by eleven (11) inches.
  - C. Whenever more than one sheet is used to accurately portray the lands subdivided, each sheet shall display the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the other sheets adjoin. An index sheet shall be provided to show the relationship between the sheets.
  - D. A maximum scale of one hundred feet to one inch (100' = 1") shall be used. The scale used shall be clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.
  - E. Subdivisions shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.
  - F. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plat, as well as the scale and date.
  - G. All monuments to be of record shall be adequately described and clearly identified on the plat. When additional monuments are to be established subsequent to the recording of the plat, the location of the additional monuments shall be shown on the plat.
  - H. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
  - I. All distances shall be shown in feet to the nearest one-hundredth of a foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.
  - J. The course of every boundary line shown on the plat shall be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line having a

shown course. All bearings and angles shown shall be given to at least the nearest minute of arc.

K. Curve data shall be stated in terms of radius, central angle and tangent, or length of curve. In all cases, the curve data must be shown for the line affected.

L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

M. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as "more or less," if variable. In all cases, the true boundary shall be clearly indicated on the plat.

N. All interior excepted parcels shall be clearly indicated and labeled, "not a part of this plat."

O. All adjoining properties shall be identified and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Re-subdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

P. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

Q. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

R. The purpose of all areas dedicated to the public must be clearly indicated on the plat.

S. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number or seal.

T. Street names and clear designation of public alleys.

U. Block and lot numbers.

V. Name and address of owner and subdivider.

W. Accurate dimensions for any property to be dedicated or reserved for public use.

X. The plat shall be signed and acknowledged by the subdivision land owner and his or her spouse.

- Y. A sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.
2. Information to be Provided in Accompanying Material. The following material shall be submitted with the final plat:
- A. A correct legal description of the subdivision land;
  - B. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;
  - C. 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.
  - D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
  - E. 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.
  - F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

**171.14 SUBMISSION OF FINAL PLAT.** The subdivider shall prepare a final plat in accordance with the provisions of Section 171.13 and shall file with the Clerk an application in triplicate for the final approval of the plat. The application shall:

- 1. Forms and Fees. Be made on forms available from the Clerk together with a fee of fifty dollars (\$50.00) per lot.
- 2. Number of Copies of Plat. Be accompanied by a minimum of ten (10) copies of the final plat.
- 3. Offers of Dedication. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities and easements, in a form approved by the City Attorney.
- 4. Time of Submission. Be presented to the Clerk at least four (4) weeks prior to the regular meeting of the Commission.

**171.15 REFERRAL OF FINAL PLAT.** The Clerk shall immediately refer two (2) copies of the final plat to the City Engineer and seven (7) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the final plat to the County Board of Supervisors.

**171.16 ACTION BY THE COMMISSION ON FINAL PLAT.** The Commission shall, upon receiving the final plat, as soon as possible, but not more than thirty (30) days thereafter, consider the final plat, and if the same is recommended for approval, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Commission. If the Commission recommends approval of the final plat, such approval and the date thereof shall be noted on the plat over the signature of both the Chairperson and Secretary of the Commission and the plat and five (5) copies shall be transmitted to the Council, and one copy shall be returned to the subdivider.

**171.17 ACTION BY THE COUNCIL ON FINAL PLAT.** Upon receipt of the certification by the Commission, the Council shall, within sixty (60) days, either approve or disapprove the final plat.

1. Disapproval of Plat. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. Acceptance of Plat. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. Final Approval and Recording of Plat. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect. The resolution shall direct the Mayor and Clerk to certify the resolution which shall be affixed to the plat.

**171.18 RESUBDIVISION OF LAND.** The following requirements shall govern the resubdividing of land.

1. Procedure for Resubdividing. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved for public use indicated on the map, or any lot line, or if it affects any map or plan legally established prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the same procedure, rules and regulations as for a subdivision.
2. Acreage Lots. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission and Council may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

**171.19 COMPLETION OF IMPROVEMENTS.** Before the final plat is approved by the Council, all applicants shall be required to complete, in accordance with the Council's

decision and to the satisfaction of the City Engineer, all the street, sanitary sewer, water and other improvements as required in these regulations, specified in the final plat, and as approved by the Council, and to dedicate the same to the City, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

**171.20 PERFORMANCE BOND.** The Council in its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to approving the final plat, and that, as an alternative, the applicant post a bond at the time of application for final plat approval in an amount estimated by the Council to be no less than 100% of the cost of construction of such improvement to secure to the City the satisfactory construction, installation and dedication of the incompleting portion of required improvements. In addition:

1. Approved by City Attorney. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in these regulations.
2. Completion Period. The period within which required improvements must be completed shall be specified by the Council in the resolution approving the final plat shall be incorporated in the bond, and shall not exceed one year from date of final approval.
3. Extension of Completion Period. The performance bond shall be approved by the Council as to the amount and surety and conditions satisfactory to the Council. The Commission may, upon proof of difficulty, recommend to the Council an extension of the completion date set forth in such bond for a maximum period of one additional year. The Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond.
4. Temporary Improvements. The applicant shall build and pay for all costs of temporary improvements required by the Council and shall maintain same for the period specified by the Council. Prior to the construction of any temporary facility or improvement, the developer shall file with the City a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.
5. Failure to Complete Improvement. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Council in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

**171.21 INSPECTION OF IMPROVEMENTS.** The Council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The applicant shall pay to the City an inspection fee equal to the actual cost of inspection. These fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall furnish the Council with a construction schedule prior to the commencement of any and all construction, and notify the City not less than twenty-four (24) hours in advance of readiness for required inspections.

**171.22 RELEASE OR REDUCTION OF PERFORMANCE BOND.** The performance bond may not be released or reduced except as follows:

1. Certificate of Satisfactory Completion. The Council will not accept dedication of required improvements, nor release or reduce a performance bond, until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer has certified to the City through submission of detailed "as built" plans of the subdivision indicating location, dimensions, materials and other information required by the City, that all public improvements are in accordance with construction plans for the subdivision.
2. Reduction of Performance Bond. A performance bond may be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat.

**171.23 MAINTENANCE OF IMPROVEMENTS.** Improvements shall be maintained and a maintenance bond provided as follows:

1. Maintenance of Improvements Before Acceptance. The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required, until acceptance of said improvements by the Council. If there are any certificates of occupancy on a street not dedicated to the City, the City may, on twelve (12) hours' notice, plow the street or effect emergency repairs and charge same to applicant.
2. Maintenance Bond. The applicant shall be required to file a maintenance bond with the Council, prior to dedication, in an amount considered adequate by the Council and in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements for a period of two (2) years after the date of their acceptance by the Council and dedication of same to the Council.

**171.24 ISSUANCE OF CERTIFICATES OF OCCUPANCY.** No certificate of occupancy shall be issued until the extent of street improvement is adequate for vehicular access by the prospective occupant and by police and fire equipment.

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## CHAPTER 172

# SUBDIVISION REGULATIONS IMPROVEMENTS AND DESIGN STANDARDS

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172.03 Conformance to Applicable Rules and Regulations	172.13 Sewage Facilities
172.04 Subdivision Name	172.14 Sidewalks
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**172.01 IMPROVEMENTS REQUIRED.** The subdivider shall install and construct all improvements required by these regulations in accordance with the specifications and under the supervision of the Council and to its satisfaction.

**172.02 DESIGN STANDARDS ARE MINIMUM.** 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 the subdivision, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

**172.03 CONFORMANCE TO APPLICABLE RULES AND REGULATIONS.** In addition to the requirements established herein, all subdividers shall comply with the following laws, rules and regulations.

1. State Statutes. All applicable statutes of the State of Iowa.
2. City Plans. Any comprehensive plan, public utilities plan and capital improvements program of the City.
3. State Agency Rules. The requirements and rules of State agencies such as the State Department of Natural Resources, State Department of Health and the State Department of Transportation, where applicable.
4. County Standards and Regulations. The standards and regulations of the County Board of Supervisors and County commissions, boards and agencies where applicable.
5. City Standards and Regulations. The standards and regulations adopted by the Council, boards, commissions and agencies of the City.
6. Plat Approval and Conformity. Plat approval may be withheld if a subdivision is not in conformance with the above guides or policy and purposes of these regulations.

**172.04 SUBDIVISION NAME.** The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Council, after consultation with the Commission, shall have the

final authority to designate the name of the subdivision which shall be determined at preliminary plat approval.

**172.05 MONUMENTATION.** Monuments shall be in conformance with the following requirements:

1. Establishment of Permanent Control Monuments. Prior to the offering of the plat of any subdivision for record, the surveyor shall confirm the prior establishment of permanent control monuments at each controlling corner on the boundaries of the parcel or tract of land being subdivided. If no permanent control monuments exist, the surveyor shall establish at least two (2) permanent control monuments for each block created, or if the area subdivided into lots is less than a block in size, at least two (2) permanent control monuments shall be established for the subdivision. Permanent control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of the monument.
2. Other Monuments of Record. Other monuments established prior to the recording of the plat of the subdivision and described on the plat shall be considered monuments of record and shall be given the same weight as original permanent control monuments if the monuments remain undisturbed in their original positions. The additional monuments shall be constructed and embedded according to the provisions for permanent control monuments according to the provisions for permanent control monuments prescribed in subsection 1 of this section.
3. Establishment and Recording of Other Monuments. Monuments other than the permanent control monuments required in subsection 1 of this section shall not be required to be established before the recording of the plat or the conveyancing of lands by reference to the plat if the registered land surveyor includes in the surveyor's statement on the plat that the additional monuments required by these regulations shall be established before a specified future date.
4. Additional Monuments Required. Additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in subsection 1 of this section, and shall be set in all of the following locations whether set prior to the recording of the plat, or subsequent to such recording:
  - A. At every corner and angle point of every lot, block or parcel of land created.
  - B. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad or other way.
  - C. At every point of curve, tangency, reversed curve or compounded curve on every right-of-way line established.
5. Placement of Monument. When the placement of a monument required by this chapter at the prescribed location is impractical, it is permissible to establish a reference monument in close proximity to the prescribed location. If the reference monument is established prior to the recording of the plat and its location properly shown on the plat, the reference monument shall have the same status as other

monuments of record. Where any point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the surveyor. The existing monument shall be considered a monument of record when properly shown and described on the recorded plat.

**172.06 CHARACTER OF THE LAND.** Land which the City finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision or its surrounding areas or both, shall not be subdivided or developed unless adequate methods are formulated by the subdivider and approved by the Council, upon recommendation of the Commission, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

**172.07 LOTS.** The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

1. Lot Size. Minimum lot dimensions and sizes shall conform to the requirements of the zoning regulations where applicable, but in no case shall a lot contain less than 5,000 square feet of area or be less than 50 feet wide measured at the building line.
  - A. Residential lots where not served by public sewer shall be of sufficient size, as determined by the City and subject to any applicable State or County rules or regulations, to accommodate the type of private sewage disposal system proposed by the developer.
  - B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
  - C. Corner lots for residential use shall have an extra twenty (20) feet of width to permit appropriate building setback from and orientation to both streets.
2. Street Access. Each lot shall be provided with satisfactory access to a public street.
3. Double Frontage and Reverse Frontage Lots. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
4. Side Lot Lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
5. Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

6. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of each subdivision.

**172.08 BLOCKS.** Blocks shall conform to the following requirements:

1. Provision for Lots. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions shall be permitted in blocks adjacent to arterial streets, railroads or waterways.
2. Design Considerations. The lengths, widths and shapes of blocks shall be determined with due regard to:
  - A. Provision for adequate building sites.
  - B. Zoning requirements where applicable.
  - C. Topography.
  - D. Needs for convenient access, circulation, control and safety of street traffic.
3. Block Lengths. The lengths of blocks shall be appropriate to the type of development contemplated, but block lengths in residential developments shall not exceed 1,320 feet, or be less than 500 feet. Wherever practicable, blocks along arterials and collector streets shall not be less than 1,000 feet in length.
4. Easement Reservation. In blocks over 800 feet in length, the Council may require the reservation of an easement to accommodate utilities, drainage facilities or pedestrian traffic.
5. Pedestrian Crosswalks. Pedestrian crosswalks, not less than 10 feet wide, may be required by the Council through the center of blocks more than 800 feet in length. Pedestrian crosswalks shall not exceed 12% in grade unless steps of an approved design are to be constructed.

**172.09 STREETS – GENERAL REQUIREMENTS.** Streets shall conform to the following general requirements:

1. Frontage on Improved Roads. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street.
2. Grading and Improvement Plan. Streets shall be graded and improved and conform to the City construction standards and specifications and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted.
3. Topography and Arrangement. Streets shall be conformance with the following requirements related to topography and arrangement:
  - A. Streets shall be related appropriately to be topography. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

- B. All streets shall be properly integrated with the existing and proposed system of streets and dedicated right-of-way.
  - C. All arterials shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
  - D. Municipal service streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
  - E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions., or unless in the opinion of the Council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
  - F. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
4. Access to State or County Jurisdictional Roads. Whenever any part of a subdivision is designed with access to a road under State or County jurisdiction, permission for access to such roads shall be obtained from the appropriate jurisdiction and such access shall be designed according to the standards of the appropriate jurisdiction.
5. Access to Arterial Streets. Where a subdivision borders on or contains an existing or proposed arterial street, the Council may require that lot access to such streets be limited by one of the following means:
- A. Lots shall be designed so as to back onto the primary arterial and front onto a parallel municipal service street; no access shall be provided from the arterial street, and screening shall be provided in a strip of land along the rear property line of such lots.
  - B. A series of cul-de-sacs entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.
  - C. A frontage or service road, separated from the primary arterial by a planting or grass strip and having access thereto at suitable points.
6. Street Names. Streets that are in alignment with others already existing shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council and Commission.
7. Street Name Signs. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Council. The City shall install all street name signs. The applicant shall deposit

with the City at the time of final subdivision approval the estimated cost of installation of each street sign required by the Council.

8. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the Council.

9. Construction of Streets and Dead-end Streets. Streets and dead-end streets shall be in conformance with the following requirements:

A. Construction of Streets. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, and for efficient provision of utilities. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T or L shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

B. Permanent Dead-end Streets. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 150 feet. However, the Council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with City construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

**172.10 STREETS – DESIGN STANDARDS.** The following design standards shall apply to the design of streets:

1. General. In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required:

A. A tangent at least 100 feet long shall be introduced between reverse curves on municipal arterial and municipal collector streets, and 75 feet on municipal service streets.

B. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet for municipal service and municipal collector streets, and of such greater radii as the Council shall determine for special cases.

C. Minimum Roadway and Right-of-way Standards:

- (1) Municipal arterial streets shall have a right-of-way width of not less than 80 feet and a roadway width of not less than 44 feet.
- (2) Municipal collector streets shall have a right-of-way width of not less than 60 feet and a roadway width of not less than 36 feet.
- (3) Municipal service streets shall have a right-of-way width of not less than 50 feet and a roadway width of not less than 26 feet.
- (4) Frontage streets shall have a right-of-way width of not less than 40 feet and a roadway width of not less than 26 feet.
- (5) Cul-de-sacs shall meet all the requirements for a municipal service street and, in addition, shall provide a turnaround with a right-of-way radius of 50 feet and a roadway radius of 40 feet. No cul-de-sac shall exceed 500 feet in length.

D. Street grades, wherever feasible, shall not exceed the following:

- (1) Municipal arterial streets - six percent (6%);
- (2) Municipal collector streets - eight percent (8%);
- (3) Municipal service streets - ten percent (10%);
- (4) Frontage streets - six percent (6%).

E. All changes in street grade shall be connected by vertical curves of minimum length in feet equal to 20 times the algebraic difference in percents of grade.

F. No street grade shall be less than one-half ( $\frac{1}{2}$ ) of one percent.

2. Street Surfacing and Improvements. After sewer, water and other utilities to be located underground within the right-of-way have been installed by the applicant, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be of Portland concrete cement. Adequate provisions shall be made for culverts, drains and bridges. All road pavement, shoulders, drainage improvements and structure, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the City, and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

3. Excess Right-of-way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three (3) to one.

4. Railroads and Limited Access Highways. Railroad rights-of-way and limited access highways were so located as to affect the subdivision of adjoining lands shall be treated as follows:

- A. In residential districts, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

- B. In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
- C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
5. Intersections. The following standards shall apply to the design of intersections:
- A. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. No more than two (2) streets shall intersect at any one point unless specifically approved by the Council.
- B. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least 800 feet apart.
- C. Minimum curb radius at the intersection of two (2) municipal service streets shall be at least 20 feet; and minimum curb radius at an intersection involving a municipal collector street shall be at least 25 feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
- D. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.
- E. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
- F. The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.
6. Bridges. Bridges of primary benefit to the applicant, as determined by the Council, shall be constructed at the full expense of the applicant without reimbursement from the City. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Council, will be fixed by

special agreement between the Council and the applicant. Said cost shall be charged to the applicant pro rata as the percentage of his or her land developed and so served.

7. Alleys. The following design standards for alleys shall be required of all subdividers:

- A. Alleys shall be prohibited in residential districts.
- B. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
- C. Alleys shall have a right-of-way of not less than 30 feet and a roadway width of not less than 20 feet.
- D. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- E. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Council.

8. Street Dedications and Reservations. The following provisions shall apply to street dedications and reservations:

- A. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his or her own subdivision boundaries.
- B. Where a subdivision borders an existing narrow street or when City plans or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his or her expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying yard or area requirements of the zoning regulations whether the land is to be dedicated to the City in fee simple or an easement is granted to the City.

**172.11 STORM SEWERS AND DRAINAGE.** The following requirements shall apply to the provision of storm sewers and drainage:

- 1. General Requirements. The Commission shall not recommend for approval any plat of a subdivision which does not make adequate provision for storm or flood water run-off channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods as approved by the Council, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than six hundred (600) feet in the gutter. When calculations indicate that curb capacities are

exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

2. Nature of Storm Water Facilities. The applicant may be required by the Council to carry away by pipe or open ditch any spring or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

A. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the Council. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved outfall.

B. If a connection to a public storm sewer will be provided eventually, as determined by the Council, the subdivider shall make arrangement for future storm water disposal by a public storm sewer system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

C. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Council shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by applicable zoning regulations.

D. The Council shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. City drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

E. The Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood plain of any stream or drainage course.

3. Dedication of Drainage Easements. The following shall apply to the dedication of drainage easements.

A. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of

such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

B. Drainage easements:

(1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the street lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.

(2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(3) The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the Council.

(4) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the area requirement of any lot.

**172.12 WATER FACILITIES.** Water facilities shall be provided as follows:

1. General Requirements. The following general requirements shall apply to the provision of water facilities:

A. Where a public water main is accessible the subdivider shall install adequate water facilities, including fire hydrants, subject to City specifications. All water mains shall be at least six (6) inches in diameter.

B. Water main extensions shall be approved by the City.

C. To facilitate the above, the location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat.

2. Individual Wells and Central Water Systems. The following requirements shall apply to the provision of individual wells and central water systems:

A. In the discretion of the Council, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the appropriate County or State agency for testing, and individual wells and central water systems shall be approved by the appropriate County or State health authorities. Orders of approval shall be submitted to the Council.

B. If the Council requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements for future water service

at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.

3. Fire Hydrants. Fire hydrants shall be required for all subdivisions except those coming under subsection 2 of this section. Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of any structures and shall be approved by the City.

**172.13 SEWAGE FACILITIES.** Sewage facilities shall be provided as follows:

1. General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the City construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the City and the State Department of Natural Resources or State Department of Health. Plans shall be approved by the above agencies.
2. Construction of Sanitary Sewage Systems. Sanitary sewage systems shall be constructed as follows:
  - A. Where a public sanitary sewage system is reasonably accessible, the applicant shall connect with the same and provide sewers accessible to each lot in the subdivision.
  - B. Where sanitary sewer systems are not reasonably accessible but will become available within a reasonable time, not to exceed 15 years, the applicant may choose one of the following alternatives:
    - (1) Install a central sewage system, operated and maintained by the benefited property owners. Where plans for future public sanitary sewage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains.
    - (2) Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.
  - C. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of 15 years, the applicant shall install individual disposal systems or central sewage systems.
3. Individual Disposal System Requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of applicable zoning regulations and these regulations. Percolation tests and test holes shall be made as directed by the City and the results submitted to the local board of health.
4. Water Supply Interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer which will

permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

**172.14 SIDEWALKS.** The following requirements shall apply to the provision of sidewalks:

1. Location. Sidewalks shall be a minimum of three feet from the curb.
2. Construction. Sidewalks shall be improved as required in subsection 2 of Section 172.10 of these regulations. The applicant shall construct the sidewalks after the building has been built.

**172.15 UTILITIES.** The following shall apply to the provision of utilities:

1. Location. All utility facilities, including (but not limited to) gas, electric power, telephone and CATV cables, shall be located underground throughout the subdivision. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
2. Easements. Easements shall be provided as follows:
  - A. Easements centered on rear lot lines shall be provided for utilities. Such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
  - B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.

**172.16 PRESERVATION OF NATURAL FEATURES AND AMENITIES.** Existing features which would add value to residential development or to the City as a whole, such as trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision or any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be protected against change of grade.

**172.17 NONRESIDENTIAL SUBDIVISIONS.** The following provisions shall apply to nonresidential subdivisions:

1. General. If a proposed subdivision includes land that is used for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Council, and shall conform to the proposed land use and standards established in City plans and regulations.

2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- A. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- B. Streets rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
- C. Special requirements may be imposed by the City with respect to street, curb, gutter and sidewalk design and construction.
- D. Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer and storm water drainage.
- E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
- F. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

**172.18 SCHOOL AND PARK RESERVATIONS.** If land to be subdivided contains sites that are designated in City plans or plans of other public bodies to be used for schools or parks, the developer shall reserve such site for such use. If sites which have been reserved are not acquired by the City or other public body within two (2) years after the date of the preliminary plat approval, then such sites may be subdivided by the developer. The appropriate public body may release the reserved site sooner by certifying to the Council that it does not intend to acquire such site within the two-year period.

**172.19 IMPROVEMENTS WITHIN UNINCORPORATED JURISDICTION.** Improvements in the two-mile unincorporated area under the jurisdiction of these regulations shall be the same as required herein, provided they are not less than that required by the applicable County subdivision regulations, and provided further that all construction plans shall be approved by the County, and completed public roads shall be accepted by the Board of Supervisors for public maintenance.

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