

# CHAPTER 1

## CODE OF ORDINANCES

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**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Sully, 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 Sully, Iowa.
3. "Clerk" means the city clerk of Sully, 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 Sully, Iowa.
6. "Council" means the city council of Sully, Iowa.
7. "County" means Jasper County, Iowa.
8. "May" confers a power.
9. "Measure" means an ordinance, amendment, resolution or motion.
10. "Must" states a requirement.
11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Sully, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 \$105.00 but not to exceed \$855.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.

*(Ord. 1125 – Oct. 20 Supp.)*

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

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## CHAPTER 2

# CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

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 Sully, Iowa.

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

*(Code of Iowa, Sec. 372.4)*

**2.03 POWERS AND DUTIES.** 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 (5) Council Members elected at large for overlapping terms of four (4) years.

*(Code of Iowa, Sec. 376.2)*

**2.05 TERM OF MAYOR.** The Mayor is elected for a term of two (2) years.

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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## CHAPTER 3

# BOUNDARIES

**3.01 CORPORATE LIMITS.** The corporate limits of the City are described as follows:

The south 30 rods of the S $\frac{1}{2}$  of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ ; the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ ; and the south 30 rods of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ ; the north 10 rods of Lot 1 of the Subdivision of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ ; Parcel B of Lot 2 of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ ; all in Section 5, Township 78 North, Range 17 West of the 5th P.M.

and

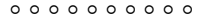
Lot 1 of the Subdivision of the SE $\frac{1}{4}$  of Section 6, as the same appears in Plat Book B at Page 425 in the Office of the Recorder of Jasper County, Iowa, together with the W $\frac{1}{2}$  of the abandoned railroad right-of-way lying east of and adjacent to the previously described tract of real estate; and beginning 164 feet west of the southeast corner of the SE $\frac{1}{4}$  of Section 6, Township 78 North, Range 17 West of the 5th P.M.; thence east 164 feet; thence north 200 feet; thence west 419 feet; thence southeasterly to the place of beginning; together with the E $\frac{1}{2}$  of the abandoned railroad right-of-way lying west of and adjacent to the previously described tract of real estate; all in Township 78 North, Range 17 West of the 5th P.M.

and

The east 607 feet of the NE $\frac{1}{4}$  of Section 7, except the south 100 feet of the north 633 feet thereof; the east 1001.83 feet of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 7, except the east 607 feet thereof; Parcel "B" of the east half of the northeast quarter of Section 7, as appears in the Plat of Survey of record in Book 1153, at page 18 in the Office of the Recorder of Jasper County; all in Township 78 North, Range 17 West of the 5th P.M.

and

The NW $\frac{1}{4}$  and the W $\frac{3}{4}$  of the NE $\frac{1}{4}$  of Section 8, Township 78 North, Range 17 West of the 5th P.M.





## CHAPTER 4

# MUNICIPAL INFRACTIONS

4.01 Municipal Infraction  
4.02 Environmental Violation  
4.03 Penalties

4.04 Civil Citations  
4.05 Alternative Relief  
4.06 Criminal Penalties

**4.01 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, or as otherwise provided within this Code, is a municipal infraction punishable by civil penalty as provided herein.

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

**4.02 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.

**4.03 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 - \$100.00
  - B. Second Offense - \$200.00
  - C. Subsequent Offenses - \$300.00 (and court appearance required)

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 one thousand dollars (\$1,000.00) for each day a violation exists or continues.

B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$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.

**4.04 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.

**4.05 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])*

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

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

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## CHAPTER 5

# OPERATING PROCEDURES

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

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

- 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 except as allowed in Subsection 5.

*(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(1)(a))*

5. Insurance Policy in Lieu of Bond. In lieu of a bond, a public officer required to obtain a bond pursuant to Chapter 64 of the *Code of Iowa* may obtain an insurance policy in an amount not less than the amounts required of a bond.

*(Code of Iowa, Sec. 64.3)*

*(Section 5.02 – Ord. 1160 – Oct. 24 Supp.)*

**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 and 22.3A)*

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

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

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

1. Definitions. The following terms are defined for use in this section.

A. “Closed session” means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.

B. “Hybrid meeting” means a meeting involving both remote participation and in-person participation by members.

*(Code of Iowa, Sec. 21.8(4)(a))*

C. “Open session” means a meeting to which all members of the public have access.

*(Code of Iowa, Sec. 21.2(3))*

D. “Remote participation” means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.

*(Code of Iowa, Sec. 21.8(4)(b))*

E. “Reasonable notice” means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the

body holding the meeting, or if not such office exists, at the building in which the meeting is to be held.

*(Code of Iowa, Sec. 21.4(1))*

F. “Teleconference participation” means participation using audio conference tools involving multiple participants in at least two separate locations.

*(Code of Iowa, Sec. 21.8(4)(c))*

G. “Virtual meeting” means a meeting involving real-time interaction using integrated audio, video, and other digital tools, in which participants do not share a physical location.

*(Code of Iowa, Sec. 21.8(4)(d))*

2. Notice of Meetings. Reasonable notice of the time, date, and place of each meeting and its tentative agenda shall be given.

*(Code of Iowa, Sec. 21.4)*

3. 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)*

4. 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)*

5. 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)*

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

*(Code of Iowa, Sec. 21.7)*

7. Electronic Meetings. A governmental body shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members of the governmental body to participate in official meetings. A governmental body conducting a meeting pursuant to this subsection shall comply with all of the provisions of Chapter 21 of the *Code of Iowa*.

*(Code of Iowa, Sec. 21.8)*

*(Section 5.06 – Ord. 1161 – Oct. 24 Supp.)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (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 that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

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

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

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

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

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

***(Subsections 10-12 – Ord. 1120 – Sep. 19 Supp.)***



**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. 1095 – Aug. 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)*

**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 each year at such time as directed by the Council.

4. Annual Statement.

*(Code of Iowa, Sec. 24.2A(2))*

A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 15, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-10) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. The proposed property tax hearing shall be set on a date on or after March 20 of the budget year immediately preceding the budget year for which the tax is being proposed. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on a date no later than the date of publication of the notice.

(4) Failure of a newspaper to publish a required notice under this paragraph shall not be considered a failure of a political subdivision to provide required notice under this paragraph if all of the following conditions are met:

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Subsection 2, Paragraph B.

b. The political subdivision can demonstrate to the county auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

*(Subsection 4 – Ord. 1156 – Oct. 24 Supp.)*

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

6. Notice of Hearing. Following, and not until the requirements, of Subsection 4 of this section, are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing, unless an additional tax levy is approved at a City election. 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])*

*(Section 7.05 – Ord. 1149 – Oct. 23 Supp.)*

**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. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
2. Checks. Two signatures are required on all City checks. Checks shall be pre-numbered and signed by the Clerk and Mayor or Mayor Pro Tem or designated Council member following Council approval, except as provided by Subsection 4 hereof.
3. 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.
4. 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.
5. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of

the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

*(Code of Iowa, Sec. 384.22)*

*(Section 7.08 – Ord. 1149 – Oct. 23 Supp.)*

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

**8.01 Purpose**

**8.02 Sully Urban Renewal Area**

**8.03 1996 Addition to the Sully Urban Renewal Area**

**8.04 2002 Addition to the Sully Urban Renewal Area**

**8.05 2005 Addition to the Sully Urban Renewal Area**

**8.06 Sully Urban Renewal Area – Deletion of Property**

**8.07 March, 2021 Addition to the Sully Urban Renewal Area**

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

**8.02 SULLY URBAN RENEWAL AREA.** The provisions of this section apply to the Sully Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on November 9, 1992:

*All property within the corporate boundaries of the City of Sully, Iowa*

The taxes levied on the taxable property in the Sully Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 07-92, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Sully Urban Renewal Area, as shown on the assessment roll as of January 1, 1991, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Sully Urban Renewal Area on the effective date of Ordinance No. 07-92, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1, 1991, shall be used in determining the assessed valuation of the taxable property in said Sully Urban Renewal Area on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Sully Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Sully Urban Renewal Area exceeds the total assessed value of the taxable property in such area as

shown on the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Sully Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Sully Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

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

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

**8.03 1996 ADDITION TO THE SULLY URBAN RENEWAL AREA.** The provisions of this section apply to the 1996 Addition to the Sully Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on August 8, 1996:

*The West One-half of the Northeast Quarter of the Northeast Quarter; and*

*The West One-half of the Southeast Quarter of the Northeast Quarter,*

*All in Section 8, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa;*

and

*The east 607 feet of the NE<sup>1</sup>/<sub>4</sub> of Section 7, except the south 100 feet of the north 633 feet thereof; Lots B and C of the Subdivision of the SW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 8, except the north 407.94 feet of the south 593.73 feet of the south 8 acres of said Lot C; Lot 1 of the subdivision of the SE<sup>1</sup>/<sub>4</sub> of Section 6, as the same appears in Plat Book B at Page 425 in the office of the Recorder of Jasper County, Iowa, together with the W<sup>1</sup>/<sub>2</sub> of the abandoned railroad right-of-way lying east of and adjacent to the previously described tract of real estate; and beginning 164 feet west of the SE corner of the SE<sup>1</sup>/<sub>4</sub> of Section 6, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M.; thence east 164 feet; thence north 200 feet; thence west 419 feet; thence southeasterly to the place of beginning; together with the E<sup>1</sup>/<sub>2</sub> of the abandoned railroad right-of-way lying west of and adjacent to the previously described tract of real estate, all in Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa*

The taxes levied on the taxable property in the 1996 Addition to the Sully Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which such Urban Renewal Area is located, from and after the effective date of Ordinance No. 1003, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 1996 Addition to the Sully Urban

Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 1996 Addition to the Sully Urban Renewal Area on the effective date of Ordinance No. 1003, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the 1996 Addition to the Sully Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 1996 Addition to the Sully Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 1996 Addition to the Sully Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 1996 Addition to the Sully Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 1996 Addition to the Sully Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 1996 Addition to the Sully Urban Renewal Area.

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

**8.04 2002 ADDITION TO THE SULLY URBAN RENEWAL AREA.** The provisions of this section apply to the 2002 Addition to the Sully Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on August 12, 2002:

*The east 1001.83 feet of the SE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 7, Township 78 North Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, except the east 607 feet thereof*

The taxes levied on the taxable property in the Urban Renewal Area Amendment each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which such Urban Renewal Area Amendment is located, from and after the effective date of Ordinance No. 1029, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 1029, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

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

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

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

**8.05 2005 ADDITION TO THE SULLY URBAN RENEWAL AREA.** The provisions of this section apply to the 2005 Addition to the Sully Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted November 7, 2005:

TRACT #1

*The north 50 rods of Lots 2 of the SE<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub>, except the west 10 rods of the north 50 rods of Lot 2 of Section 5, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, containing 8.27 acres;*

and

TRACT #2

*The west 10 rods of the north 50 rods of Lot 2 of the SE<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub> of Section 5, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, containing 3.125 acres.*

The taxes levied on the taxable property in the Urban Renewal Area Amendment each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which such Urban Renewal Area is located, from and after the effective date of Ordinance No. 1054, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 1054, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

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

thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

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

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

**8.06 SULLY URBAN RENEWAL AREA – DELETION OF PROPERTY.** The provisions of this section apply to the deletion of certain property from the tax increment financing district for the Sully Urban Renewal Area. The deleted property is described as follows:

TRACT #1

*The north 50 rods of Lots 2 of the SE¼ of the SW¼, except the west 10 rods of the north 50 rods of Lot 2 of Section 5, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, containing 8.27 acres;*

and

TRACT #2

*The west 10 rods of the north 50 rods of Lot 2 of the SE¼ of the SW¼ of Section 5, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, containing 3.125 acres.*

The deleted property is hereby removed from the tax increment financing district for the Sully Urban Renewal Area, from and after the effective date of Ordinance No. 1127. No division of property tax revenues as provided under Section 403.19 of the *Code of Iowa* shall be done with respect to the deleted property without further action by the City Council.

*(Section 8.06 – Ord. 1127 – Sep. 21 Supp.)*

**8.07 MARCH, 2021 ADDITION TO THE SULLY URBAN RENEWAL AREA.** The provisions of this section apply to the March, 2021 Addition to the Sully Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted March 8, 2021:

TRACT #1

*The north 50 rods of Lots 2 of the SE¼ of the SW¼, except the west 10 rods of the north 50 rods of Lot 2 of Section 5, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, containing 8.27 acres;*

and

TRACT #2

*The west 10 rods of the north 50 rods of Lot 2 of the SE¼ of the SW¼ of Section 5, Township 78 North, Range 17 West of the 5<sup>th</sup> P.M., Jasper County, Iowa, containing 3.125 acres.*



The taxes levied on the taxable property in the Urban Renewal Area Addition each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which such Urban Renewal Area Addition is located, from and after the effective date of Ordinance No. 1128, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Addition on the effective date of Ordinance No. 1128, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the *Code of Iowa* and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

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

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

*(Section 8.07 – Ord. 1128 – Sep. 21 Supp.)*

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## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

**15.01 TERM OF OFFICE.** The Mayor is elected for a term of two (2) 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
2. Peace Officer
3. Library Board of Trustees

**15.04 COMPENSATION.** The salary of the Mayor is one thousand four hundred forty dollars (\$1,440.00) per year or one hundred twenty dollars (\$120.00) per month, payable quarterly on the first day of January, April, July and October. Effective January 1, 2018 the salary of the Mayor is one thousand eight hundred dollars (\$1,800.00) per year or one hundred fifty dollars (\$150.00) per month, payable quarterly. ***(Ord. 1101 – Sep. 16 Supp.)***

*(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 (5) Council members elected at large for overlapping terms of four (4) years.

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of 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.

*(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 fourteen (14) days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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



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

1. Regular Meetings. The regular meetings of the Council are established by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting.

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

3. Quorum. A majority of all Council members is a quorum.
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 (3) 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. Building Inspector/Zoning Administrator
4. Planning and Zoning Commission
5. Board of Adjustment

**17.06 COMPENSATION.** The compensation for each Council member is forty dollars (\$40.00) for each regular meeting of the Council attended, and twenty-five dollars (\$25.00) for each special meeting of the Council attended, payable quarterly. Effective January 1, 2018 the compensation for each Council Member is fifty dollars (\$50.00) for each regular meeting of the Council and annual budget work session attended; and twenty-five (\$25.00) for each special meeting of the Council attended, payable quarterly. ***(Ord. 1101 – Sep. 16 Supp)***

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

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## CHAPTER 18

### CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Clerk to serve for a term established by the Council. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

**18.03 PUBLICATION OF MINUTES.** Within 15 days following a regular or special meeting of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The 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))*

*(Section 18.03 – Ord. 1158 – Oct. 24 Supp.)*

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

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

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

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

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

*(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 and 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 and 5] and 380.7[5])*

**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 position and the time at which they shall assume the duties of their office.

*(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. 1095 – Aug. 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.

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**CHAPTER 19**  
**CITY TREASURER**

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

**19.03 Duties of Treasurer**

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

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

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

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

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## CHAPTER 20

# CITY ATTORNEY

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

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

**20.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Attorney to serve at the pleasure 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 and interested department heads, 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 OPINION ON CONTRACTS.** The City Attorney shall, at the request of the Council, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City.

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

**20.07 PROVIDE LEGAL OPINION.** The City Attorney shall, upon request, give advice or a written legal opinion upon all questions of law relating to City matters submitted by the Council, Mayor or Clerk, as directed by the Mayor or Council, any Board or the head of any City department.

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

**20.08 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])*

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

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

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

*(Code of Iowa, Sec. 670.8)*

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## CHAPTER 21

# LIBRARY BOARD OF TRUSTEES

21.01 Public Library

21.02 Library Trustees

21.03 Qualifications of Trustees

21.04 Organization of the Board

21.05 Powers and Duties

21.06 Power to Contract with Others for the Use of  
of the Library

21.07 Nonresident Use of the Library

21.08 Library Account

21.09 Annual Report

**21.01 PUBLIC LIBRARY.** The public library for the City is known as the Sully Community Library. It is referred to in this chapter as the Library.

**21.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five (5) members. Members are to be appointed by the Mayor with approval of the Council. The nonresident member(s) are to be appointed by the Mayor with the approval of the County Board of Supervisors. †

**21.03 QUALIFICATIONS OF TRUSTEES.** Members of the Board shall be bona fide citizens, over the age of 18, with a minimum of four (4) being current residents of the City of Sully. One (1) member may be a resident of unincorporated Jasper County, living within 10 miles of the Sully Community Library.

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

1. Term of Office. All appointments to the Board shall be for four (4) years, except to fill vacancies. Each term shall commence on July 1st. Appointments shall be made every year, with two (2) members appointed every fourth (4) year, to stagger the terms. (The present incumbents are confirmed in their appointment and terms.)
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City or a nonresident member moves permanently from the County; or if they are absent from three (3) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Board vacancies shall be filled in the same manner as an original appointment except that the new trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary.
2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.

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† **EDITOR'S NOTE:** Pursuant to an election, as required by the *Code of Iowa*, held on November 7, 2023, approval for changes to the makeup of the Library Board was approved by the voters of the City.

3. To direct and control all affairs of the library.
4. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the board voting in favor thereof.
5. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty.
6. To authorize the librarian to select and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationery and supplies for the library within budgetary limits set by the board.
7. To authorize the use of the library by nonresidents of the City and to fix charges thereof.
8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.
9. To have exclusive control of the expenditure of all funds allocated for library purposes by the Council, and of all moneys available by gift or otherwise for the erection of library buildings, and of all other moneys belonging to the library including fines, and rentals collected, under the rules of the board.
10. To accept gifts of real property, personal property, or mixed property, and devises, and bequests, including trust funds; to take the title to said property in the name of the library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the library.
11. To keep a record of its proceedings.
12. To enforce the performance of conditions on gifts, devises and bequests accepted by the City by action against the City Council.

#### **21.06 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.**

1. Contracting. The Board may contract with any other boards of trustees of free public libraries of any other city, school organization, institution of higher learning, township, or county, or with the trustees of any county library district for the use of the library by their respective residents.
2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) per cent in number of the electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before

the election. The proposition must be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

**21.07 NONRESIDENT USE OF THE LIBRARY.** The Board may authorize the use of the library by nonresidents in any one or more of the following ways:

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

**21.08 LIBRARY ACCOUNT.** All money appropriated by the Council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be approved by the Library Board.

**21.09 ANNUAL REPORT.** A report shall be made to the City Council after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, along with such further information required by the Council.

*(Chapter 21 – Ord. 1153 – Oct. 24 Supp.)*

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## CHAPTER 22

# PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission  
22.02 Term of Office  
22.03 Vacancies

22.04 Compensation  
22.05 Powers and Duties

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

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

**22.02 TERM OF OFFICE.** The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

*(Code of Iowa, Sec. 392.1)*

**22.03 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)*

**22.04 COMPENSATION.** All members of the Commission shall receive compensation for their services in an amount set by resolution of the Council.

*(Code of Iowa, Sec. 392.1)*

**22.05 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. 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)*

5. 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)*

6. 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)*

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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 JOINT AGREEMENT WITH SULLY RURAL FIRE DISTRICT.** The City has entered into an agreement with the Board of Trustees of Sully Rural Fire District, Jasper and Mahaska Counties, Iowa, on July 1, 1992, to provide fire protection and ambulance service for the City pursuant to Chapter 28E of the Code of Iowa.

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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 Law Enforcement Authority

36.07 Liability

36.08 Violation

**36.01 PURPOSE.** In order to reduce the danger to public health, safety and welfare, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous materials leaks and 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 or waste, and restoration of the affected environment.

*(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 or hazardous waste 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 of 1976, or any toxic pollutant listed under subsection 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 those wastes which are included by the definition in Section 455B.411(3) of the Code of Iowa. In brief, a 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 to January 1, 1979.

*(Code of Iowa, Sec. 455B.411[3])*

5. “Person” means an individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

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

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

7. “Treatment” means a method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safe for transport, amenable for recovery, amendable for storage or to reduce it in volume. “Treatment” includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

### **36.03 CLEANUP REQUIRED.**

1. Whenever a hazardous condition is created so that a 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, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.

2. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup or the City may proceed to procure cleanup services and bill the responsible person for all associated costs.

3. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup.

4. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Mayor or Mayor Pro Tem and so advise that the City immediately seek any State or Federal funds available for said cleanup.

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

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

#### **36.05 NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste or any other person who discovers a hazardous condition shall notify the Jasper County Dispatcher of the occurrence of a hazardous condition as soon as possible.
  - A. Notification shall be as immediate as is humanly possible and available communications allow if the hazardous condition exposes any of the population of the City or County to immediate danger or potential escalation of danger in the near future.
  - B. If the hazardous condition is not immediately life threatening the notification should proceed as soon as possible but not later than six (6) hours after the onset of the hazardous condition or its discovery.
2. The person or persons responsible for the spilled or released hazardous substance or waste shall, on their own initiative, fulfill the requirements of State law for notification of the State Emergency Response Commission through the Department of Natural Resources.
  - A. The responsible person shall make contact with the Department of Natural Resources for the spill or release notification. Notification of the local emergency planning committee through the County dispatcher constitutes local notification only.
  - B. Any contact by the County dispatcher or other City or County officials or authorities with the Department of Natural Resources does not constitute, imply, convey or carry any notification of the State authorities for the responsible person.

#### **36.06 LAW ENFORCEMENT AUTHORITY.** If the circumstances reasonably so require, the Sheriff or the officers of the Sheriff's Department, the County emergency program manager, the Mayor, any Council person, or the Fire Chief 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 the site to emergency personnel, including cleanup personnel, for as long as deemed necessary by either the incident commander or the Sheriff.

3. Impound any vehicle or carrier of hazardous materials involved in a spill or release until such time that legally binding assurances have been received from the carrier or manufacturer assuming full responsibility for all the costs of the cleanup of the damage caused and the restoration of the environment.

No person shall disobey any lawful order issued by the Sheriff, Sheriff's deputies or other law enforcement or peace officer involved in the incident.

**36.07 LIABILITY.** The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02(6).

**36.08 VIOLATION.** Each day that a violation of this chapter occurs shall constitute a separate offense.

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
  - E. “Show disrespect” means to deface, defile, mutilate, or trample.
  - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
  - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
  - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

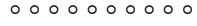
*(Code of Iowa, Sec. 723.5)*

*(Section 40.03 – Ord. 1135 – Sep. 21 Supp.)*

**40.04 UNLAWFUL ASSEMBLY.** (Repealed by Ordinance No. 1135 – Sep. 21 Supp.)

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

*(Code of Iowa, Sec. 723.3)*



## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

**41.03 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, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, medical examiner, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or

authority of that officer, jailer, emergency medical care provider, medical examiner, or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically. *(Ord. 1133 – Sep. 21 Supp.)*

*(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, air rifles, shotguns, revolvers, pistols, guns, BB guns, bows and arrows, crossbows 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.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:

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

(1) First-class consumer fireworks:

a. Aerial shell kits and reloadable tubes;

- b. Chasers;
  - c. Helicopters and aerial spinners;
  - d. Firecrackers;
  - e. Mine and shell devices;
  - f. Missile-type rockets;
  - g. Roman candles;
  - h. Sky rockets and bottle rockets;
  - i. Multiple tube devices under this paragraph B which are manufactured in accordance with APA Standard 87-1, Section 3.5.
- (2) Second-class consumer fireworks:
- a. Cone fountains;
  - b. Cylindrical fountains;
  - c. Flitter sparklers;
  - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
  - e. Ground spinners;
  - f. Illuminating torches;
  - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
  - h. Wheels;
  - i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

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

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

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

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

- A. Personal Injury: \$250,000.00 per person
  - B. Property Damage: \$50,000.00
  - C. Total Exposure: \$1,000,000.00
3. Consumer Fireworks.
- A. It is unlawful for any person to use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.
  - B. It is unlawful for any person to use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:
    - (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.
    - (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.
    - (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.
  - C. It is unlawful for any person to use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.
4. Novelties. This section does not apply to novelties.

*(Ord. 1110 – Jan. 18 Supp.)*

**41.13 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)*

**41.14 ILLEGAL INHALANTS.** No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or the nervous system, intentionally smell or inhale the fumes from any model glue or cement, hair spray, inhalers, and other solvents or chemicals having the property of releasing toxic vapors; however, this section does not apply to the inhalation of any medicine or anesthesia for medical or dental purposes.

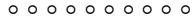
**41.15 FAILURE TO ASSIST.** A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person



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

*(Ord. 1132 – Sep. 21 Supp.)*

*(Code of Iowa, Sec. 727.12)*



## 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

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

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

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

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

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

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## CHAPTER 43

# DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery or Offering For Sale

43.07 Special Penalty

43.08 Violation

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

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

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

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

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

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

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

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

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

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

**43.07 SPECIAL PENALTY.** The prohibited possession or use of each item or object defined herein as drug paraphernalia shall constitute a separate offense, and each day a violation occurs shall constitute a separate offense.

**43.08 VIOLATION.** A person who violates this chapter commits a simple misdemeanor.  
*(Code of Iowa, Sec. 124.414)*

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

### 45.01 Persons Under Legal Age

### 45.03 Open Containers in Motor Vehicles

### 45.02 Public Consumption or Intoxication

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

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

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

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

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

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 from any liquor control licensee or wine or beer permittee.

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

*(Section 45.01 – Ord. 1142 – Oct. 22 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 retail alcohol license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place. *(Ord. 1142 – Oct. 22 Supp.)*

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.]*

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## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

**46.01 CURFEW.** A curfew applicable to minors is established and shall be enforced as follows:

1. Definition. The term “minor” means in this section, any unmarried person below the age of eighteen (18) years.
2. Time Limits. 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 twelve o’clock (12:00) midnight and five o’clock (5:00) a.m., seven days a week.
3. Exceptions. The restriction provided by subsection 46.01(2) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, church, municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 46.01(2), except as otherwise provided in subsection 46.01(3).  
*(Code of Iowa, Sec. 613.16)*
5. Responsibility of Business Establishments. It is unlawful for any persons operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by subsection 46.01(2) except as otherwise provided in subsection 46.01(3).
6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 46.01(2) and (3). Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person’s employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.  
*(Ord. 1126 – Oct. 20 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	47.10 Nuisance
47.02 Hours	47.11 Public Meetings and Concerts
47.03 Use of Drives Required	47.12 Reservations
47.04 Speed Limit	47.13 Alcoholic Beverages
47.05 Overnight Parking	47.14 Animal Control
47.06 Obstructing Traffic	47.15 Tobacco Use
47.07 Fires	47.16 Metal Detectors
47.08 Littering	47.17 Firearms
47.09 Camping	47.18 Entering

**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 HOURS.** All public parks shall be closed from 12:00 a.m. to 6:00 a.m. each day. No person other than a municipal employee, law enforcement officer or person authorized by written permission from the Public Works Director shall be present on park grounds during those hours.

**47.03 USE OF DRIVES REQUIRED.** No person shall drive any car, cycle or other vehicles, 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; except official City vehicles.

**47.04 SPEED LIMIT.** The speed limit in all parks shall not exceed ten (10) miles per hour.

**47.05 OVERNIGHT PARKING.** Overnight parking of any vehicle is prohibited in any park except by written permission of the Public Works Director.

**47.06 OBSTRUCTING TRAFFIC.** No vehicle shall be parked in such a manner as to obstruct any drive or roadway.

**47.07 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.

**47.08 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.

**47.09 CAMPING.** No person shall camp in any portion of a park.  
*(Ord. 1100 – Sep. 16 Supp.)*

**47.10 NUISANCE.** No person shall use any loud, violent, obscene or profane language while in any park, or behave in a disorderly or obscene manner or commit any nuisance upon the grounds.

**47.11 PUBLIC MEETINGS AND CONCERTS.** No person or organization shall call or hold any public meeting or give any concert, exhibition, tournament, or public entertainment of any kind in any park without a permit. *(Ord. 1100 – Sep. 16 Supp.)*

**47.12 RESERVATIONS.** The park grounds, picnic areas, shelter houses, and sports areas are intended for use by the citizens of the City on a first come, first served basis, subject to the following:

1. Person or organizations having written permits or reservations shall have priority in that area of the park grounds, picnic area, shelter house or sports area during the times and dates stated on said permit or reservation.
2. Application for permits and reservations shall be made in the office of the Clerk.
3. Fees for permits or reservations are established by resolution of the Council.

**47.13 ALCOHOLIC BEVERAGES.** No person shall bring, use, consume or have in their possession in a City park, beer or wine in a keg or any other container larger than one quart except hereinafter provided. No person shall bring, use or consume beer or wine within any playing area, fields or courts except as hereinafter provided. A caterer or vendor with a valid City issued permit, liquor license and liquor liability insurance (i.e. dram shop) may sell or provide beer and wine to persons at a City park if allowed by an approved City permit. The providing or sale of beer or wine shall cease with either the expiration of the permit or in accordance with applicable Iowa law controlling the sale of alcoholic beverages. With the exception of beer and wine, all other types of alcoholic beverages are prohibited in City parks. *(Ord. 1106 – Jan. 18 Supp.)*

**47.14 ANIMAL CONTROL.** No animal shall be allowed in any public park unless it is attached to a leash not more than six (6) feet in length and having sufficient strength to restrain the animal, and the leash must be held by a person capable of restraining and controlling the animal.

**47.15 TOBACCO USE.** Tobacco use is prohibited on all city-owned park areas. This includes, but is not limited to, cigarettes, cigars, electronic smoking devices, chewing tobacco, etc.

**47.16 METAL DETECTORS.** No person shall bring into any park any metal detector or other device designed or intended to locate or find metal objects without the consent of the Council or the Public Works Director.

**47.17 FIREARMS.** No person shall use firearms, fireworks, explosives, or weapons of any kind in any park, except on written permission of the Council or the Public Works Director.

**47.18 ENTERING.** No person shall enter upon portions of any park in disregard of official signs forbidding entrance, except by permission of the Council or the Public Works Director. *(47.15 – 47.18 Added by Ord. 1100 – Sep. 16 Supp.)*

## CHAPTER 48

# NOISE CONTROL

48.01 Purpose	48.05 Vehicle Noise Limits
48.02 Definitions	48.06 Engine Back-Pressure Brakes Prohibited
48.03 Measurement of Noise and Sound	48.07 Permits
48.04 Test Measurement and Requirements for Determining National Classification of Sound	48.08 Exemptions
	48.09 Penalties

**48.01 PURPOSE.** The purpose of this chapter is to prevent excessive sound, which is a serious hazard to the public health and the quality of life in the City.

**48.02 DEFINITIONS.** All terminology used in this chapter and not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

1. "A or C weighted sound level (sound level)" means the sound pressure level in decibels as measured on a sound level meter using the A or C weighting network. The level so read shall be designated dB(A) or dBA, or dB(C) or dBC.
2. "Decibel" means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted as dB.
3. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons and property from an imminent danger.
4. "Emergency vehicle" means a motor vehicle used in response to a public calamity or to protect persons and property from imminent danger.
5. "Exhaust system" means the device or combination of devices that collects the exhaust from the engine or motor, delivers the exhaust to the atmosphere, and reduces the noise emissions. Exhaust system includes manifold or headers, exhaust pipe, muffler, and tail pipe.
6. "Gross vehicle weight" means the value specified by the manufacturer as the loaded weight of a vehicle.
7. "Motor vehicle" means every vehicle which is self propelled.
8. "Sound" means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.
9. "Sound level meter" means an instrument, including a microphone, amplifier, output meter and weighting networks, that is sensitive to pressure fluctuations. The output meter reads sound pressure level in decibels when properly calibrated and the instrument is of Type 2 or better as specified in American National Standards Institute Publication S1 4-1971, or its successor publication.

**48.03 MEASUREMENT OF NOISE AND SOUND.** The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good

working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during the measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured voice. A windscreen for the microphone shall be used when required. The measurement shall be an A weighted or C weighted sound level.

**48.04 TEST MEASUREMENT AND REQUIREMENTS FOR DETERMINING NATIONAL CLASSIFICATION OF SOUND.**

1. No person shall engage or participate in the making and creating of an excessive or unusually loud sound within the city heard and measured in the manner prescribed below, except when done under and in compliance with a permit issued pursuant to this chapter.
2. It shall be the duty of persons in a position of ownership, possession or control of premises to prevent such premises from being the site of activities producing sound levels in excess of what is permitted under this chapter. Failure or refusal to perform such duty shall constitute a violation of this section.
3. It shall be the duty of persons in positions or leadership or responsibility with respect to unincorporated associations, groups, gatherings and assemblages of people to prevent such from causing or making sound levels in excess of what is permitted under this chapter. Failure or refusal to perform such duty shall constitute a violation of this section.
4. For the purpose of determining and classifying any sound as excessive or unusually loud, the following test measurements and requirements are to be applied:
  - A. The sound shall be measured at the edge of the City street or alley right-of-way reasonably appearing to be to the source of the sound. When a complaint is received, a measurement may also be taken at the location on the property where the complaining party was disturbed.
  - B. The sound shall be measured on a sound level meter of standard design and quality operated in an “A” or “C” weighting scale.
  - C. A sound measured or registered in excess of the maximum permitted levels according to the following table, is declared to be excessive and unusually loud and is unlawful.

Neighborhood Characteristic	Maximum dB Permitted
Residential	65 between 7:00 a.m. and midnight; 55 between midnight and 7:00 a.m.
Commercial	70
Industrial	75
Park or Agriculture	65

**48.05 VEHICLE NOISE LIMITS.** It is unlawful for any person or owner to cause or permit to be operated within the public right-of-way in the City any motor vehicle which emits a noise in excess of the dB(A) or dB(C) level established in this section.

1. The maximum allowable noise levels for motor vehicles shall be 75 dB(A) or 75 dB(C) measured at a distance of twenty-five feet.



2. This section applies to the total noise from a motor vehicle and shall not be construed as limiting and precluding the enforcement of any other provisions of this chapter and includes radios, cassette players, disk players, sound amplification systems and similar devices associated with motor vehicles.
3. The sound shall be measured on a sound level meter of standard design and quality operated on the “A” or “C” weighting scale.

**48.06 ENGINE BACK-PRESSURE BRAKES PROHIBITED.** No person operating a motor vehicle within the City shall use an engine back-pressure braking system or mechanical exhaust device designed to aid in the braking or deceleration of the motor vehicle.

**48.07 PERMITS.** Applications for a permit for relief from the provisions up to an additional 5dB(A) and dB(C) of this chapter may be made to the law enforcement officer or a duly authorized representative, pursuant to the following procedure:

1. All permits must be applied for in writing during normal business hours stating what devices are to be employed, where they are to be employed, on what dates and at what times of day they are to be used, the nature of the sounds to be produced or amplified and the number of people in attendance, and the persons responsible for the activity.
2. Permits granted shall state with reasonable specificity the date, location, time, nature of the sound, devices permitted, number of people in attendance, and the persons responsible for the activity.
3. Permits shall not be arbitrarily or unreasonably withheld nor shall the free expression of ideas or lawful speech be restrained, but sound and noise producing conduct having no communicative value and serving only to unreasonably disturb and disrupt the enjoyment of residences and normal pursuits shall be restrained.
4. The law enforcement officer or designee may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

**48.08 EXEMPTIONS.** The requirements, prohibitions, and terms of this chapter shall not apply to emergency work or to any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency. The terms of this section shall not apply to those activities of a temporary duration, permitted by law including but not limited to parades, fireworks displays, outdoor warning systems, nonprofessional athletic contests, all construction work and all other authorized activities occurring on government property.

**48.09 PENALTIES.**

1. A violation of any provision of this chapter shall be a municipal infraction.
2. Alternatively, a violation of any provision of this chapter can be charged by a peace officer of the City as a simple misdemeanor.

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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 Adult Establishments

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard. **(See also Chapter 53)**

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)**
5. Weeds and Grass **(See Chapter 53)**

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

*(Code of Iowa, Sec. 657.3)*

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
  - A. Description of Nuisance. A description of what constitutes the nuisance.

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

- B. Location of Nuisance. The location of the nuisance.
- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.  
*(Code of Iowa, Sec. 364.12[3h])*
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to 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 4 of this Code of Ordinances.

**50.08 ADULT ESTABLISHMENTS.**

1. As used in this section, “adult establishment” means any business that provides nude or topless dancing or operates any other adult-oriented business.

2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:

A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

*(Code of Iowa, Sec. 657.12)*

*(Section 50.08 – Ord. 1159 – Oct. 24 Supp.)*

## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

### 51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

**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])*

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<sup>†</sup> **EDITOR'S NOTE:** See Zoning Regulations, Section 165.10(1)(B).



## CHAPTER 53

# WEEDS AND GRASS

53.01 Purpose

53.02 Definitions

53.03 Cutting Specifications and Standards of Practice

53.04 Uniform Height Specifications

53.05 Noxious Weeds

53.06 Method of Notice

53.07 Failure to Comply

53.08 Abatement by City

53.09 Collection of Costs

53.10 Failure to Abate

**53.01 PURPOSE.** The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain all vegetation at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. "Curb," "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. "Cut," or "mow" means to mechanically maintain the growth of grass, weeds, brush, or other vegetation at a uniform height.
3. "Owner" means a person owning private property in the City and any person occupying private property in the City.
4. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

**53.03 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.**

1. Every owner shall cut, mow and maintain all grass, weeds, brush, and other vegetation upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 53.04.
2. Every owner shall cut, mow and maintain grass, weeds, brush, and other vegetation adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds, brush, or other vegetation growing on the remainder of the owner's property.

**53.04 UNIFORM HEIGHT SPECIFICATIONS.** Grass, weeds, brush, or other vegetation shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas — not to exceed six inches (6").
2. Undeveloped Residential Areas — not to exceed eight inches (8").
3. Business and Industrial Areas — not to exceed six inches (6").

4. Agriculture Areas — not to exceed fifteen inches (15").

Grass, weeds, brush, or other vegetation which are allowed to grow in excess of the above specified limitations are deemed to be violations of this chapter. Any property within the Sully corporate limits, whether vacated or non-vacated, is required to conform to these specifications.

**53.05 NOXIOUS WEEDS.**

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.

2. Noxious weeds include any weed growth or plant designed as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

**53.06 METHOD OF NOTICE.** Annual spring publication of this chapter in an official newspaper shall serve as notice to property owners. The City will be authorized to respond to violations without additional written notice being given.

**53.07 FAILURE TO COMPLY.** If the property owner fails to comply with this chapter, the Council or its appointee shall cause the property to be mowed. The fee for this service will be set by resolution and will be assessed against the property.

**53.08 ABATEMENT BY CITY.** If the property owner neglects or fails to abate as directed by this chapter, the City may perform the required action to abate. The fee for the abatement will be set by the City Council.

**53.09 COLLECTION OF COSTS.** The City Clerk shall send a statement of the total expense incurred to the property owner who has failed to abide by the publication notice. If the amount shown by the statement has not been paid within one (1) 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.

**53.10 FAILURE TO ABATE.** Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same is in violation of this Code of Ordinances.

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Police Dogs and Dogs Trained to Guide the Blind and Hearing Impaired and Support Service Dogs for People with Disabilities
55.02 Animal Control Administration	55.12 Unlawful Removal
55.03 Offenses	55.13 Entering Property
55.04 Pet Awards Prohibited	55.14 Agricultural Animals, Cows, Goats, Sheep, Hogs, Horses, Poultry and Rabbits
55.05 Control by Owner	55.15 Animals Running at Large
55.06 Rabies Vaccination	55.16 Livestock Neglect
55.07 Rabies Suspect	55.17 Penalty
55.08 Vicious Animal	
55.09 Animal Nuisance	
55.10 Notice of Impoundment; Reclaiming; Disposal of Animals; and Fees	

**55.01 DEFINITIONS.** For the purpose of this chapter, each word and phrase shall have the following meaning:

1. ANIMAL shall mean any living creature, except human beings, and including (without limiting the generality) mammals, birds, reptiles, fish, amphibians, and invertebrates. The word "animal" shall mean only mammals when referring specifically to the control of rabies suspected animals.

2. ANIMAL WILD BY NATURE shall mean and include any animal, which because of its dangerous physical features, or its great size or its vicious nature presents a clear and proven danger to human beings.

A. The following members of the Class Aves: Order Falconiformes (hawks, eagles, falcons, and vultures) which are not kept pursuant to federal or State permit, and Order Ratites (ostriches, rheas, cassowaries, and emus); or birds native to the continental United States and Alaska and all birds covered under the Lacey Act and Migratory Bird Act.

B. The following members of the Class Mammalia: Order Canivora, Family Felidae (ocelots, margays, tigers, lions, panthers, jaguars, leopards, ocelots, cougars, bobcat, lynx, cheetah, serval), except commonly accepted domesticated cats; the Family Canidae (wolves, foxes, dingoes, coyotes, and jackals), except domesticated dogs; Family Mustelidae (weasels), martin, wolverines, minks, badgers and other mustelids); Family Procyonidae (raccoon); Family Ursidae (bears); Order Chiroptera (bats); (Order Edentata (sloths, anteaters, and armadillos); Order Marsupialia (kangaroos and common opossums); Order Proboscidea (elephants); Order Primate (monkeys, except squirrel monkeys, chimpanzees, and gorillas); Order Rodentia (beaver, muskrat, and porcupines); Order Artiodactyla (antelope, deer, bison, and camels); and Order Perissodactyla (horse-like animals); civet cat, skunk, wild boars, elephants, all constricting snakes over six (6) feet in length and any hybrid or cross-breed of any of the above listed animals.

C. Any species of animal which is venomous to human beings, whether its venom is transmitted by bite, sting, touch, or other means including, but not limited to, widow and brown recluse spiders, scorpions, all poisonous snakes, Gila monsters and other venomous or poisonous lizards.

- D. Any species of animal when kept, maintained, or harbored in such numbers or in such manner as to constitute the likelihood of danger to the animals themselves, to human beings, or to the property of human beings or other domestic animals.
- E. Any animal that has attacked or bitten any person without provocation, or any animal that has exhibited vicious propensities in present or past conduct by acting in the following manner; (a) by biting a person or persons on two separate occasions within a twelve (12) month period; or (b) did bite a person once causing injuries above the shoulders of the person.
- F. Except as expressly provided in this title, the term “animal wild by nature” shall not include nonpoisonous aquatic or amphibious animals, gerbils, hedgehogs, hamsters, guinea pigs, domestic mice, domestic rabbits, birds except for those listed in this section, domestic rats, chinchillas, geckos and iguanas.
3. AT LARGE shall mean when:
- A. An animal is not confined on the premises of its owner in a fenced in area (electric or otherwise); or
- B. A dog is not under leash, at heel, or under the immediate, direct control of the person having possession of the dog and obedient to that person’s command; or
- C. A cat not in the physical control of its owner.
- D. An animal not restrained within a motor vehicle, housed in a veterinary hospital or kennel.
4. CAT shall mean and include any domestic cat.
5. ANIMAL CONTROL OFFICER shall mean the duly appointed, qualified, or acting Animal Control Officer of Sully, Iowa, or the City’s authorized representative.
6. CONFINED ON THE PREMISES shall mean that condition in which an animal is securely and physically confined and restrained on and within the premises of the owner by means of walls or fences at least 6 feet tall, or by rope, chain, leash, or other device of such strength and size as to prevent such animal from leaving the premise and not permit it to stray onto the property of one other than the owner.
7. DOG shall mean and include any animal of the canine species.
8. DOMESTIC ANIMAL shall mean dogs and cats as well as horses, donkeys, mules, burros, cattle, sheep, goats, swine, rabbits, and fowl.
9. FOWL shall mean any bird which has been domesticated and is commonly raised for food or egg production, including but limited to chickens, ducks, geese, turkey, peafowl, pheasant, partridge, quail, and grouse.
10. HE, HIM, HIS, IT, ITS shall mean and include the masculine, feminine, and neuter gender.
11. HIVE shall mean a manmade home for bees which includes one or more boxes containing removable frames for rearing young bees, a queen excluder, one or more boxes with removable frames for honey storage, an inner cover, and a top cover, all of which are set on a hive stand.

12. KENNEL shall mean a place or establishment other than a pound or animal shelter where a maximum of 5 dogs or cats (a maximum of 3 of which can be dogs) not owned by the proprietor are sheltered, fed and watered in return for a consideration.
13. MAMMAL shall mean any of the class Mammalia or any subclasses of all animals that nourish their young with milk secreted by mammary glands and have their skin more or less covered with hair.
14. NUISANCE shall mean any animal which habitually commits any one or a combination of the following acts:
- A. Scratches or digs into any flower bed, garden, tilled soil, vines, shrubbery, or small plants and in so doing injures the same;
  - B. Overturns any garbage can or other vessel for waste products or scatters the contents of same;
  - C. Chases any person or domestic animal, or injures or kills any domestic animal;
  - D. Barks, howls, brays, or makes any other loud or offensive noise common to its species or peculiar to itself, so as to disturb the inhabitants of the community; and
  - E. Is at large.
15. OWNER shall mean any person, firm, association or corporation having the care or maintenance of, keeping or harboring, sheltering, or in possession and control of or custody of any dog, cat, animal, or domestic animal.
16. PIGEON or DOVE shall mean any bird in the family Columbidae and shall include any exotic dove (ringneck, white, diamond, fruit, cape, laceneck, etc.) and any fancy pigeon, racing pigeon, or common pigeon.
17. POULTRY shall mean any bird of the species Gallus or Meleagris gallipavo (domestic turkey), generally, any type of chicken.
18. RABBIES-SUSPECTED ANIMAL shall mean any animal which has bitten a human being or which has been bitten by any animal suspected of having rabies.
19. RELEASING AGENCY shall mean any municipal shelter, humane society organization, or any other agency or group that has an ongoing adoption program and/or rescues animals for placement, whether to the public or private.
20. UNDER LEASH shall mean and include the condition of a dog being securely held, restrained, and confined by its owner, member of family, or agent by means of a strap, chain, rope, cord, or other device not exceeding sixteen (16) feet in length, and in such manner as to prevent the dog from attacking any person.
21. VICIOUS ANIMAL shall mean any animal which has:
- A. Killed or inflicted bodily injury upon any person or domestic animal, requiring hospitalization, medical treatment at a medical facility, or rehabilitative treatment; or
  - B. Evidenced a propensity, tendency, or disposition to:
    - (1) Attack without provocation; or

- (2) Cause injury to, or otherwise endanger the safety of human beings or domestic animals,
  - C. Any dog of a breed known to have a propensity or disposition to be of a vicious nature.
  - D. Any dog of a mixed breed which contains a strain of such breed knowing to have a propensity or disposition to be a vicious nature which is identifiable as such by a qualified veterinarian duly licensed in the State of Iowa.
22. POTENTIALLY DANGEROUS DOG means any of the following:
- A. Any dog which, when unprovoked, on two separate occasions within the prior 36 month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are on or off the property of the owner or keeper of the dog.
  - B. Any dog which, when unprovoked, inflicts injury upon a person that does not require medical treatment at a medical facility.

#### **55.02 ANIMAL CONTROL ADMINISTRATION.**

1. The City may appoint City employees as Animal Control Officers specifically for enforcing the provisions of this chapter and referenced provisions of the *State Code of Iowa*, or the City may contract with a public or private agency to provide animal control and/or impoundment services. If such a contract is entered into by the City, the City may designate by contract language those employees who are authorized to enforce the provisions of this chapter and referenced provisions of the *State Code of Iowa* as Animal Control Officers. Animal control shall generally be carried out by the Jasper County Animal Control Officer, with the assistance of City departments as requested.
2. The City may, at its discretion, maintain a pound that complies with State of Iowa requirements for an animal pound, for the purpose of temporarily housing animals impounded under this chapter. The City may also, at its discretion, contract for either animal control services, or pound services or both. If the City contracts for Animal Control Officer services, those officers shall have peace officer powers for the limited duty of enforcing this chapter and referenced applicable sections of the Code of the State of Iowa.

**55.03 OFFENSES.** It shall be an offense under the terms of this chapter and punishable as a simple misdemeanor offense or a municipal infraction for any owner within the corporate limits of the City of Sully, Iowa to:

1. Own, keep, possess, harbor, or allow to remain on premises under his control any dog or cat over six (6) months old unless such dog or cat has a current vaccination against rabies as required in this title.
2. Fail to prevent any dog or cat owned, possessed, kept, or harbored by him from running or being at large; provided, however, that it shall be permissible for a dog to be led off the premises of its owner when under leash; and provided further, that it shall be permissible for a police dog not to be under leash while being utilized by a police officer in the performance of police duties and when accompanied by a police officer.

3. Deposit any live dog, cat, or other domestic animal along any private or public roadway or in any other private or public place with the animal except the person may deliver to the animal shelter facility.
4. Fail or refuse to deliver to the City employee as Animal Control Officer upon demand any dog or cat, vicious animal, animal which is a nuisance, rabies suspected animal, dog, or cat found at large, or any animal the keeping or harboring of which is declared to be an offense.
5. Keep, possess, own, harbor, or exhibit any animal wild by nature except as an exhibition complying with all aspects of State and federal laws.
6. Fail or refuse to keep every female dog or cat “in heat” confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in such a manner that another dog or cat cannot come into contact with it.
7. Interfere or hinder City employee as Animal Control Officers from performing his duties.
8. Own or harbor any animal or fowl primarily or in part for the purpose of fighting, or any animal or fowl trained for such; or any person to place or attempt to place an animal or fowl in an enclosure or in any other place for the purpose of fighting or combat, or any person to promote, state, hold, manage, conduct, be umpire, judge, or spectator at any game, exhibition, contest, or fight in which an animal or fowl is used for the purpose of fighting, injuring, killing, maiming, or destroying any other animal or fowl.
9. Harbor, keep, or possess in any one household more than a combined total of five (5) dogs and cats and ferrets over the age of six (6) months; provided that no more than three (3) of such animals shall be dogs over the age of six (6) months. It is specifically provided a household may keep or possess more dogs and/or cats than permitted by this paragraph so long as:
  - A. Immediately prior to January 1, 2011, the household legally possessed more than the number of dogs and/or cats permitted by this paragraph; and
  - B. The dogs and/or cats kept or possessed are the same animals that were kept or possessed pursuant to (1) and (2) of this paragraph.
  - C. Kennels are prohibited in districts zoned residential. Kennels shall be allowed only in agricultural or commercial zoned areas and must comply with State rules and regulations.
10. Harbor, keep, or possess domestic honeybees.
11. Harbor, keep, or possess any animal which, while not confined on the premises of its owner, does bite, chase, or attack any person on bicycles, automobiles and other vehicles. Provided, this subsection shall not apply to any police dog while being utilized in the performance of police duties and accompanied by a police officer.
12. It is unlawful for a person who impounds or confines, in any place, an animal to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined animal with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which caused unjustified pain, distress or suffering.

**55.04 PET AWARDS PROHIBITED.**

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
  - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.6 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
  - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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

**55.05 CONTROL BY OWNER.**

1. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.
2. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.
3. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley or private property other than the owner's. Said animal shall be considered at large.
4. No animal shall be allowed in any area of a City park, public sidewalk, street, alley or private property other than the owner's unless it is attached to a leash having sufficient strength to restrain the animal. In addition, the leash must be held by a person capable of restraining and controlling the animal. The owner or person supervising the animal shall pick up all animal wastes.

**55.06 RABIES VACCINATION.** Every owner of a dog or cat shall obtain a rabies vaccination for such animal.

**55.07 RABIES SUSPECT.**

1. Any rabies-suspected animal shall be securely and separately confined for observation for a period of ten (10) days. The confinement and observation shall be at the City Animal Shelter or other designated facility. The owner must immediately surrender the rabies-suspect animal to the City employee designated as the Animal



Control Officer. Any person failing to surrender a rabies-suspected animal, or any person removing the rabies-suspected animal from the City limits is guilty of a simple misdemeanor offense. If, upon examination by a veterinarian, the animal has no signs of rabies at the end of the impoundment period, it may be released to the owner or, in the case of the stray, it shall be disposed of in accordance with applicable laws. In either event, the veterinarian shall make a written report of the disposition of the animal to the City Animal Control Officer. At the end of the ten (10) days observation period, the Animal Control Officer shall notify any person bitten by a rabies suspected animal whether such animal exhibited symptoms or indications of rabies. If, within the period of impoundment, the animal dies or exhibits symptoms or indications of rabies, it shall be examined by a veterinarian for clinical diagnosis and the properly euthanized by a veterinarian. The head of any rabies-suspected animal which dies shall be submitted to the State Health Department Laboratory for confirmation of diagnosis. In this event, the City Animal Control Officer shall immediately notify any person bitten of the diagnosis.

2. Any domestic dog, cat, or ferret which is not effectively immunized against rabies virus encephalitis and is exposed to rabies through a rabid animal shall be euthanized immediately by the veterinarian in charge, Animal Control Officer or a designated agent in a manner which will preserve the head for analysis; or such non-immunized, rabies-suspected 9 exposed dog, cat, or ferret shall be strictly quarantined and observed in a veterinary hospital for a period of not less than six (6) months, and such animal shall be immunized against rabies at least thirty (30) days prior to release. Expenses for quarantine and immunization shall be borne by the owner or other person responsible for the animal.

3. If the owner of a non-immunized animal bitten by a rabid animal is unwilling to euthanize the bitten animal, then at the expense of the owner, the animal shall be confined in isolation in a veterinary hospital for a period of not less than six (6) months. The owner of any non-immunized domestic animal other than a dog, cat or ferret which has been exposed to a rabid animal shall immediately report with such domestic animal to the City Animal Control Officer for instruction concerning the disposition of that animal. Any effectively immunized domestic animal which is exposed to a rabid animal shall be immediately re-immunized and restrained by leashing and/or confined on the premises of its owner or in a veterinary hospital for a period of forty-five (45) days.

**55.08 VICIOUS ANIMAL.** It shall be the duty of the City Animal Control Officer or designee to investigate any proper claim that an animal is vicious within the meaning of this chapter. Should the investigating official determine that a vicious animal poses an immediate threat to the public health or safety, the Animal Control Officer or designee shall also file and serve a uniform complaint citation for violation of the appropriate City ordinance against any person for harboring a vicious animal or file a municipal infraction. If the court shall fail to find, upon a preponderance of the evidence presented in an evidentiary hearing, that the animal seized and impounded is a vicious animal, then the court shall order the Animal Control Officer to return the animal to its owner. If such animal is found by the court to be a vicious animal, the court may order the City Animal Control Officer or designee to euthanize the animal.

**55.09 ANIMAL NUISANCE.**

1. It shall be the duty of the City Animal Control Officer or designee to investigate any proper claim that an animal is a nuisance within the meaning of this chapter. Should the investigating official determine that a nuisance exists and it is necessary to abate the nuisance or should the official have reason to believe a threat to public health or safety exists, the City Animal Control Office shall file and serve a municipal infraction and request an order from the court that the animal be impounded. Following the filing of such verified complaint and an evidentiary hearing, if the court finds upon a preponderance of the evidence that a nuisance existed, the court may order the animal euthanized as in the case of a vicious animal. Following the filing of such municipal infraction and an evidentiary hearing, if the court finds upon a preponderance of the evidence that a nuisance existed, the court may order the animal euthanized as in the case of a vicious animal. In lieu of ordering the animal euthanized, the court may, at the request of the animal owner, require that the owner abate and prevent such nuisance and give a good and sufficient bond within three (3) days, in an amount not great than five hundred dollars (\$500.00), 10 satisfactory for a period not exceeding one (1) year. In this event, the court may order the return of such animal to the owner. However, during the pendency of such bond, upon a finding of the court that the nuisance has recurred, the court shall order the animal be impounded, euthanized, and the owner's bond to be forfeited. If the court shall find that no nuisance existed, the court shall order the animal be surrendered to the owner. The bond request amount can be increased by resolution of the City Council.

2. Nothing in this section shall be construed to permit the release from impoundment of any animal not properly vaccinated, or a threat to public health and safety.

3. It is lawful for an Animal Control Officer or peace officer to destroy, if necessary, any animal found at large which cannot be captured. It shall be lawful for any person to kill a dog when the dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

**55.10 NOTICE OF IMPOUNDMENT; RECLAIMING; DISPOSAL OF ANIMALS; AND FEES.**

1. Time for Reclaiming Animals. An animal may be reclaimed within the following time: within seven (7) days from the initial impoundment. If the owner is not known, the animal shall be held for seven (7) days before it becomes the property of the City of Sully, Iowa, (See Ordinance #66 1.04 of Jasper Co., Iowa) and is disposed of as provided herein.

2. Requirements for Reclaiming Animals. An animal may be reclaimed by meeting the following requirements:

A. If the animal is not required to be licensed by this chapter, by paying the impoundment fees and expenses and satisfy all other requirements as set forth herein; and

B. If the animal must be vaccinated for rabies before release, the person reclaiming the animal shall pay all fees for the vaccination.

3. Fees. The impounding fees will be set by the Jasper County Board of Supervisors. In addition, an owner of any animal transported to the Jasper County Animal Rescue League Shelter or its designee will be responsible for any costs incurred by the City. No animal shall be released without the payment of the fees and charges listed above and without satisfactory proof of ownership. The payment of these fees and charges shall not constitute a defense to any prosecution that may be instituted for the violations of the terms of this chapter. Provided, further, no person shall be entitled to reclaim any animal found to be a nuisance, rabid, rabies suspected or vicious.
4. Animals Not Reclaimed Within Time Limits. Animals not reclaimed within the time limits set forth in this section shall, at the option of the City Animal Control Officer or designee, be euthanized or disposed of in one of the following manners:
  - A. Animals Reclaimed by Owners. Animals may be reclaimed by the owner upon payment of all fees and charges established by this section and proof of rabies vaccinations.
  - B. Animals Wild by Nature. All animals wild by nature shall be euthanized or donated to a zoo or a museum; except that, at the discretion of the City Animal Control Officer, certain animals wild by nature which are native to Iowa and their natural habitats do not present a danger to human beings or to property may be released to their natural habitats.
  - C. Release to Veterinarian. The City Animal Control Officer or designee may, at his discretion, release animals to a licensed veterinarian if the animal is in need of veterinary care. The veterinarian must agree in writing to accept responsibility for the animal and give the animal proper veterinarian care in lieu of paying fees to receive the animal.
5. Fees for Treatment of Sick Animals. In addition to all other fees, the owner of a sick or injured animal impounded by the City Animal Control Officer or designee shall reimburse the City of Sully or a veterinarian for any fees incurred in treating the animal before the animal will be released.
6. Destruction of Animals. The City Animal Control Officer or designee may euthanize any animal if it has been surrendered to the shelter or if the animal is so sick, wounded, maimed, diseased, or injured that its cure is considered by the City Animal Control Officer or designee to be impracticable or if death is imminent, and in either of such events, such destruction may be done immediately without notice or any waiting period. Anyone surrendering an animal shall provide proof of his or her identity before the animal will be accepted.

**55.11 POLICE DOGS AND DOGS TRAINED TO GUIDE THE BLIND AND HEARING IMPAIRED AND SUPPORT SERVICE DOGS FOR PEOPLE WITH DISABILITIES.** If the dog is vaccinated as herein provided, it shall be lawful for any dog trained to guide any blind or hearing-impaired person, or for any support service dog for people with disabilities, or for any police dog owned and use by law enforcement as a police dog to be admitted to any public place or vehicle when actually accompanying a blind or hearing-impaired person or person with a disability, or when utilized as a police dog, when the blind, hearing-impaired, or disabled person, or the officer accompanying the dog might have the lawful right to entry.

**55.12 UNLAWFUL REMOVAL.** Every person who shall take out or attempt to take out of the animal shelter or any designated animal shelter property any animals located therein without paying the fees prescribed by this chapter shall be deemed guilty of a simple misdemeanor offense, or be prosecuted for a municipal infraction violation.

**55.13 ENTERING PROPERTY.** The City Animal Control Officer or his designee may impound animals which are deemed to be at large within the meaning of this chapter and which are found off the immediate premises of their owners. In multi-family residential complexes, if the property manager or agent grants access, at large animals may be removed from common areas generally made accessible to occupants and their guests. This includes, but is not limited to playgrounds, parking lots, and walkways.

**55.14 AGRICULTURAL ANIMALS, COWS, GOATS, SHEEP, HOGS, HORSES, POULTRY AND RABBITS.** It shall be unlawful for any person to keep, maintain, or permit or suffer to be maintained any cows, goats, sheep, hogs, horses, poultry, rabbits, or any miniature or dwarf variety of agricultural animal upon any property or premises within the corporate limits of the City of Sully, Iowa, except by written consent of the Council or except in compliance with the City's zoning regulations. The keeping of agricultural animals, including miniature or dwarf varieties, in violation of the terms of this section is hereby declared to be a nuisance against the public health of the City of Sully, Iowa, and such nuisance shall be subject to abatement as provided by law, or as a municipal infraction violation.

**55.15 ANIMALS RUNNING AT LARGE.** No horse, mule, donkey, cattle, or swine of any kind shall be permitted to run at large within the limits of the City or to be staked out in any public place in the City without written permission of the City; and it is declared to be unlawful for the owner or person in charge of any such animals to permit them to run at large or to be staked in any public place within the limits of this City contrary to the provisions of this Title 13.

**55.16 LIVESTOCK NEGLECT.** It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices. **55.19 PENALTY.** Unless otherwise provided, every person violating any of the provisions of these Articles shall be guilty of a simple misdemeanor, or a municipal infraction violation.

**55.17 PENALTY.** Unless otherwise provided, every person violating any of the provisions of this chapter shall be guilty of a simple misdemeanor, or a municipal infraction violation.

*(Ch. 55 – Ord. 1129 – Sep. 21 Supp.)*

[The next page is 325]

## CHAPTER 60

# ADMINISTRATION OF TRAFFIC CODE

60.01 Title	60.06 Peace Officer's Authority
60.02 Definitions	60.07 Obedience to Peace Officers
60.03 Administration and Enforcement	60.08 Parades Regulated
60.04 Power to Direct Traffic	60.09 Violations—Simple Misdemeanors Unless Otherwise Provided
60.05 Traffic Accidents: Reports	

**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Sully 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 hereby 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:

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, and specifically defined as follows:

*On Fourth Street from a line dividing Block Nine (9) and Block Ten (10) to the middle of the intersection of the street on the west side of Block Twelve (12), and on Third Street from a line dividing Block Nine (9) and Block Ten (10) to the middle of the intersection of the street on the west side of Block Twelve (12), and on the streets east of and west of the Public Square between Third Street and Fourth Street.*

2. “MPH” means miles per hour.
3. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
4. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
5. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
6. “Pedestrian” means a person afoot or a person using a pedestrian conveyance.  
*(Code of Iowa, Sec. 321.1(51))*
7. “Pedestrian conveyance” means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric

motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.

*(Code of Iowa, Sec. 321.1(51A))*

8. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

*(Code of Iowa, Sec. 321.1(63))*

9. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

*(Code of Iowa, Sec. 321.1(70))*

10. “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.

11. “Stop” means when required, the complete cessation of movement.

12. “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.

13. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.

*(Code of Iowa, Sec. 321.1(78))*

14. “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.

15. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. Vehicle does not include:

A. Any device moved by human power, including a low-speed electric bicycle.

B. Any device used exclusively upon stationary rails or tracks.

C. Any personal delivery device operated pursuant to Chapter 321O of the *Code of Iowa*.

D. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

E. Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

*(Code of Iowa, Sec. 321.1(90))*

*(Section 60.02 – Ord. 1157 – Oct. 24 Supp.)*

**60.03 ADMINISTRATION AND ENFORCEMENT.** Provisions of this chapter 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 and 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 and 321.274)*

**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 Council. 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.

**60.09 VIOLATIONS – SIMPLE MISDEMEANORS UNLESS OTHERWISE PROVIDED.**

It is a simple misdemeanor for a person to do an act forbidden or to fail to perform an act required by Sully Traffic Code and Chapter 321 of the Iowa Code unless the violation is by the Sully Traffic Code and Chapter 321 of the Iowa Code or other law of the State of Iowa declared to be a serious or aggravated misdemeanor or a felony. Chapter 232 of the Iowa Code has no application in the prosecution of offenses committed in violation of this chapter which are simple misdemeanors.

*(Code of Iowa, Sec. 321.482)*



## 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 Mayor 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 Mayor shall keep a record of all such traffic control devices.

*(Code of Iowa, Sec. 321.255)*

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones  
62.06 Obstructing View at Intersections  
62.07 Control of Vehicle  
62.08 Engine/Compression Brakes Prohibited

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

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

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Radar jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.

55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing; convoys; drawbars.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal 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 321.450 – Hazardous materials transportation.
149. Section 321.454 – Width of vehicles.
150. Section 321.455 – Projecting loads on passenger vehicles.
151. Section 321.456 – Height of vehicles; permits.
152. Section 321.457 – Maximum length.
153. Section 321.458 – Loading beyond front.

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†**EDITOR'S NOTE:** *Code of Iowa* Section 321.449B was added as Subsection 160 in October 2018.

- 154. Section 321.460 – Spilling loads on highways.
- 155. Section 321.461 – Trailers and towed vehicles.
- 156. Section 321.462 – Drawbars and safety chains.
- 157. Section 321.463 – Maximum gross weight.
- 158. Section 321.465 – Weighing vehicles and removal of excess.
- 159. Section 321.466 – Increased loading capacity; reregistration.
- 160. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle. *(Ord. 1117 – Oct. 18 Supp.)*

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

**62.07 CONTROL OF VEHICLE.** Any person operating a motor vehicle upon the streets and alleys of the City shall have said vehicle under control at all times.

**62.08 ENGINE/COMPRESSION BRAKES PROHIBITED.** All drivers operating a truck or motor vehicle on a street or highway within the City limits shall not use an engine back-pressure braking/compression braking system, commonly known as “jake brakes” to aid in the braking or deceleration of the truck or motor vehicle.

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## CHAPTER 63

# SPEED REGULATIONS

### 63.01 General

### 63.02 State Code Speed Limits

### 63.03 Cemeteries and Parking Lots

### 63.04 Special Speed Restrictions

### 63.05 Minimum Speed

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

*(Code of Iowa, Sec. 321.285)*

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

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

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

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

**63.04 SPECIAL SPEED RESTRICTIONS.** In accordance with requirements of the Iowa State 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 10 MPH Speed Zones. A speed in excess of ten (10) miles per hour is unlawful on any alley in the City.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful in any suburban district within the City.

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

*(Code of Iowa, Sec. 321.294)*

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## CHAPTER 64

# TURNING REGULATIONS

64.01 Turning at Intersections

64.06 Left Turn for Parking

64.02 U-turns

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

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## CHAPTER 65

# STOP OR YIELD REQUIRED

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

65.04 Stop Before Crossing Sidewalk  
65.05 Stop When Traffic Is Obstructed  
65.06 Pedestrians' Right-of-Way

**65.01 STOP REQUIRED.** Every driver of a vehicle shall stop at the following intersections:

*(Code of Iowa, Sec. 321.345)*

1. First Avenue at First Street, northbound;
2. Third Avenue at First Street, northbound
3. Fifth Avenue at First Street, northbound;
4. Fifth Avenue at First Street, southbound;
5. Sixth Avenue at First Street, northbound;
6. Sixth Avenue at Fourth Street, southbound;
7. Sixth Avenue at Fourth Street, northbound;
8. Seventh Avenue at First Street, northbound;
9. Seventh Avenue at Fourth Street, northbound;
10. Eighth Avenue at First Street, northbound;
11. Eighth Avenue at Fourth Street, northbound;
12. Eighth Avenue at Fourth Street, southbound;
13. Eighth Avenue at Eighth Street, southbound;
14. Ninth Avenue at First Street, northbound;
15. Ninth Avenue at Eighth Street, southbound;
16. Tenth Avenue at First Street, northbound;
17. Tenth Avenue at Fourth Street, northbound;
18. Tenth Avenue at Fourth Street, southbound;
19. Tenth Avenue at Eighth Street, southbound;
20. Second Street at Seventh Avenue, eastbound;
21. Second Street at Seventh Avenue, westbound;
22. Second Street at Eighth Avenue, eastbound;
23. Second Street at Eighth Avenue, westbound;
24. Second Street at Ninth Avenue, eastbound;
25. Second Street at Ninth Avenue, westbound;

26. Third Street at Sixth Avenue, eastbound;
27. Third Street at Sixth Avenue, westbound;
28. Third Street at Seventh Avenue, eastbound;
29. Third Street at Seventh Avenue, westbound;
30. Third Street at Eighth Avenue, eastbound;
31. Third Street at Eighth Avenue, westbound;
32. Third Street at Ninth Avenue, eastbound;
33. Third Street at Ninth Avenue, westbound;
34. Third Street at Tenth Avenue, eastbound;
35. Third Street at Tenth Avenue, westbound;
36. Fourth Street at Sixth Avenue, eastbound;
37. Fourth Street at Seventh Avenue, eastbound;
38. Fourth Street at Seventh Avenue, westbound;
39. Fifth Street at Sixth Avenue, eastbound;
40. Fifth Street at Sixth Avenue, westbound;
41. Fifth Street at Seventh Avenue, westbound;
42. Fifth Street at Eighth Avenue, westbound;
43. Fifth Street at Eighth Avenue, eastbound;
44. Fifth Street at Ninth Avenue, eastbound;
45. Fifth Street at Ninth Avenue, westbound;
46. Eighth Street at Tenth Avenue, eastbound;
47. Eighth Street at Tenth Avenue, westbound;
48. North Second Street at North Ninth Avenue, eastbound;
49. North Eighth Avenue at First Street, southbound;
50. North Eighth Avenue at North Second Street, southbound;
51. West Fourth Street at First Avenue, eastbound;
52. West Fifth Street at First Avenue, eastbound;
53. Tenth Avenue and Fifth Street, east and west;
54. Tenth Avenue and Sixth Street, north and south;
55. Twelfth Avenue and Fourth Street, north and south;
56. Seventh Street and Ninth Avenue, east and west;
57. Second Street and Sixth Avenue, east and west;
58. Fourth Street and Fifth Avenue, from north to south;
59. Fourth Street and Fourth Avenue, from north to south;
60. Eleventh Avenue and Fifth Street, north and south;

61. Eleventh Avenue and Fourth Street, east and west.

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

*(Code of Iowa, Sec. 321.345)*

1. Intersection of First Avenue and Fifth Street;
2. Intersection of Ninth Avenue and Fourth Street.
3. Intersection of Tenth Avenue and Second Street.

*(Ord. 1089 – Mar. 14 Supp.)*

**65.03 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/or signal and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

*(Code of Iowa, Sec. 321.249)*

1. Intersection of Tenth Avenue and Eighth Street;
2. A signalized school crosswalk at the intersection of Ninth Avenue and First Street;
3. A signalized school crosswalk on North Ninth Avenue/East 124<sup>th</sup> Street South located 635 feet north of the intersection of North Ninth Avenue/East 124<sup>th</sup> Street South and Highway F-62 East/First Street.

Enforcement of the signalized school crosswalks shall be in accordance with 321.257 and 321.325 through 321.330 *Code of Iowa*.

**65.04 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)*

**65.05 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.

**65.06 PEDESTRIANS' RIGHT-OF-WAY.** 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 so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection

*(Code of Iowa, Sec. 321.327)*

*(Section 65.06 – Ord. 1157 – Oct. 24 Supp.)*

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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 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 Clerk 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 streets or parts of streets within the City.

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

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

1. Truck Routes Designated. Every motor vehicle weighing thirty-five (35) 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. First Street, east and west, between the corporate limits;
- B. Seventh Avenue, north and south, between First Street and Fifth Street;
- C. Fifth Street, east and west, between Seventh Avenue and Sixth Avenue;
- D. Sixth Avenue, north and south, between Fifth Street and Eighth Street;
- E. Eighth Street, east and west, between the corporate limits;
- F. First Avenue, north and south, between the corporate limits.

2. Deliveries off Truck Route. Any motor vehicle weighing forty (40) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or

upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

**CHAPTER 67**  
**PEDESTRIANS**

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

**67.03 Pedestrian Crossing**  
**67.04 Use Sidewalks**

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

# ONE-WAY TRAFFIC

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

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

– NONE –

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## CHAPTER 69

# PARKING REGULATIONS

69.01 Park Adjacent to Curb  
69.02 Park Adjacent to Curb - One-way Street  
69.03 Angle Parking  
69.04 Angle Parking - Manner  
69.05 Further Parking Limitations  
69.06 Parking Prohibited  
69.07 Persons With Disabilities Parking

69.08 No Parking Zones  
69.09 Loading Zone  
69.10 Truck Parking Limited  
69.11 Snow Removal  
69.12 Snow Routes  
69.13 Recreational Vehicle Parking Limited  
69.14 Special Parking Regulations

**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 the south side from Sixth Avenue to Seventh Avenue;
2. Third Street on the south side from Seventh Avenue east to alley;
3. Fourth Street on the north side from Sixth Avenue west to alley;
4. Fourth Street on both sides from Sixth Avenue to Seventh Avenue;
5. Fourth Street on the south side from Eighth Avenue east to alley;
6. Sixth Avenue on the east side from Third Street to Fourth Street;
7. Sixth Avenue on the east side from Eighth Street north along Sully Transport building;
8. Seventh Avenue on both sides from Third Street to Fourth Street;
9. Eighth Street on the north side from Sixth Avenue east along Sully Transport building, except in front of steps;
10. Ninth Avenue on the west side from Second Street to Third 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 FURTHER PARKING LIMITATIONS.** No vehicle shall be left unattended or parked upon any public property including but not limited to alleys and streets between the hours of 10:00 p.m. and 6:00 a.m. of any day. No vehicle shall be left unattended or parked upon any public right-of-way, including ditches, for more than forty-eight (48) hours.

In addition, no person shall park a vehicle upon public property for any of the following principal purposes:

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

1. Sale. Displaying such vehicles for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicles 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 marketplace or when so authorized or licensed under this Code of Ordinances.

An owner or operator of a vehicle in violation of the provisions of this section shall, in addition to receiving a parking citation, be responsible for towing expenses and said vehicle violating the said provisions of this section may be towed from the public property within the City whenever said vehicle constitutes a traffic hazard.

*(Section 69.05 – Ord. 1148 – Oct. 23 Supp.)*

**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 stop, stand or park a vehicle within a public alley for more than 10 minutes; however, delivery vehicles if delivering goods are allowed to stop, stand or park for a period of time not to exceed 30 minutes, so long as they do not block a driveway entrance to any abutting property.  
*(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. Sixth Avenue on the west side in front of the Community Center;
2. Seventh Avenue on the east side from Fourth Street alley to Fifth Street;
3. Ninth Avenue on the east side from First Street to Second Street;
4. North Eighth Avenue on the east side in Northridge Estates;
5. North Ninth Avenue on the west side;
6. First Street on the north side from Seventh Avenue to west property line of Casey's General Store;
7. Fifth Street on the north side from Sixth Avenue to Seventh Avenue (fire station area);
8. North Second Street on the north side in Northridge Estates.

*(Ord. 1086 – Mar. 14 Supp.)*

**69.09 LOADING ZONE.** It is unlawful to park any vehicle in an area designated and properly marked as a loading zone, except while expeditiously loading or unloading.

**69.10 TRUCK PARKING LIMITED.** No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

A. Seventh Avenue on the west side from Third Street to Fourth Street;

2. All Night. No such vehicle shall be left unattended or parked upon any streets or alleys for a period of time longer than one (1) hour, between the hours of six o'clock (6:00) p.m. and six o'clock (6:00) a.m. of any day.

3. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

4. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

**69.11 SNOW REMOVAL.** "Snow removal operations" is defined to mean any period of time when at least two inches of snow has fallen upon the streets or when the City snow removal crews are in the process of removing snow from the streets. Snow removal operations also include sanding streets and intersections.

1. No person shall park, abandon, or leave unattended any vehicle on any public street or alley during snow removal operations and/or during "snow removal season." The owner of any vehicle left on the street or alley will be fined. The provisions of this section shall apply during the "snow removal season" which starts under either of the following conditions:

A. The first measurable snow fall or between November 1 and March 31, whichever comes first; or

B. Snow removal operations have been started for the City.

2. Failure to remove any vehicle from any public street or alley during snow removal operations and/or during snow removal season shall result in a fine of \$50.00 for the first incident, \$75.00 for the second incident, and \$100.00 for the third incident. After the third incident, said vehicle shall be subject to towing by the City.

*(Section 69.11 – Ord. 1146 – Oct. 23 Supp.)*

**69.12 SNOW ROUTES.** The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route,

it is unlawful for the driver of a vehicle to impede or block traffic if the driving wheels of the vehicle are not equipped with snow tires, tire chains or nonslip differential.

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

**69.13 RECREATIONAL VEHICLE PARKING LIMITED.** For the purposes of this section, the term “recreational vehicles” shall mean a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. Such vehicles include, but are not limited to, travel trailers, motor homes, fifth wheel trailers, pickup campers, camping trailers, converted trucks and busses, self-contained campers, boats, personal water craft, snowmobiles, trailers, fishing houses, and other recreational based vehicles designed for carrying or housing persons.

1. Public Property. No recreational vehicle shall be occupied on public streets, alleys, highways, or other public property within the corporate limits of the City of Sully, except by special permission of the City Council. The recreational vehicle shall not be parked on public streets, alleys, highway, or other public property for more than twenty-four (24) hours.

2. Private Property. Occupying a recreational vehicle is permissible on a temporary basis for a period not to exceed four (4) days in any one-month period, except by special permission of the City Council. Recreational vehicles may be parked or stored (long term use more than thirty (30) consecutive days) within the front, side, and rear yards abiding by setback requirements for said zoned district, or within an enclosed garage. Any considerations outside of these guidelines require special permission of the City Council.

*(Section 69.13 – Ord.1124 – Oct. 20 Supp.)*

**69.14 SPECIAL PARKING REGULATIONS.** In addition to parking regulations imposed by this chapter, the Mayor or designee, may impose regulations on parking on City streets and property as needed for any of the following:

1. To accommodate special events, declared disasters or major weather events which, due to their nature, create special traffic considerations requiring specific parking regulations for a limited period of time. Said regulations or prohibitions as may be imposed will be clearly marked and posted with temporary signage.

2. An owner or operator in violation of the provisions of this section shall, in addition to receiving a parking citation, be responsible for towing expenses and said vehicle violating the said provisions of this section may be towed from the public streets within the City whenever said vehicle constitutes a traffic hazard.

3. Such special parking regulations shall be set out in a written notice signed by the Mayor or designee and filed with the City Clerk for public inspection no later than 24 hours prior to the application of said parking regulation. Except in the case of a declared disaster or emergency.

*(Section 69.14 – Ord. 1148 – Oct. 23 Supp.)*

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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 and 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 and 805.8A)*

**70.03 PARKING VIOLATIONS: ALTERNATE.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for all violations except snow removal parking violations and improper use of a persons with disabilities parking permit. If such a fine is not paid within thirty (30) days of the notice, it shall be increased to thirty-five dollars (\$35.00). The simple notice of a fine for improper use of a person with disabilities parking permit is one hundred fifty dollars (\$150.00). Failure to pay the fine shall be grounds for filing of a complaint in District Court.

*(Ord. 1147 – Oct. 23 Supp.)*

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

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

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

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

**70.06 IMPOUNDING VEHICLES.** 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	75.07 Negligence
75.02 Definitions	75.08 Accident Reports
75.03 General Regulations	75.09 Towing
75.04 Unlawful Operation	75.10 Dead Man Throttle
75.05 Operation of Snowmobiles	75.11 Penalty
75.06 Operation of ATVs and UTVs	

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

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

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

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

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

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

*(Subsection 3 – Ord. 1143 – Oct. 22 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 UNLAWFUL OPERATION.** A person shall not operate an ATV or UTV under any of the following conditions on City roads:

1. At a rate of speed greater than the posted speed limit or greater than reasonable or proper under existing circumstances, but in no case above 35 miles per hour.
2. During that time after sunset and before sunrise.
3. In a careless manner such that it creates or causes unnecessary tire squealing, skidding, or sliding upon acceleration or stopping; or simulates a race or causes any wheel or wheels to unnecessarily lose contact with the ground or causes the vehicle to unnecessarily turn abruptly or sway.
4. Without a lighted white light to the front and lighted red light to the rear, both of which shall be installed, functional and on at all times of operation.
5. Without seatbelts when operating or riding in a side-by-side and operated in accordance with industry standards and practices for the vehicle.
6. While under the influence of alcohol, narcotics or drugs. All laws that apply to a motor vehicle also apply to ATVs and UTVs.
7. A person shall not operate an ATV or UTV unless the operator is 18 years of age or older and has a valid driver’s license.
8. A person shall not operate an ATV or UTV with more persons on the vehicle than it was designed to carry.
9. A person shall not operate an ATV or UTV without using proper turn signals or hand signs.
10. A person shall not operate an ATV or UTV on any snowmobile trails except where designated by the controlling authority and the primary snowmobile trail sponsor.
11. The operation of an ATV or UTV is only permitted on the roadway or shoulder, not in the ditch or the area between the edge of the shoulder to the bottom of the ditch.
12. A person shall have a copy of this ordinance with them at all times of operation.



13. A person shall not allow someone to operate an ATV or UTV in violation of this ordinance.

14. A person shall not operate an ATV, UTV or snowmobile in violation of any County or State law.

**75.05 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 which 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 which 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.

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

1. Streets. ATVs and UTVs may be operated on roadways or highways in accordance with Section 321.234A of the *Code of Iowa*. A City may regulate the operation of registered ATVs and UTVs and may designate streets under the jurisdiction of the City within its corporate limits, and two-lane primary and secondary road extensions in the City, which may be used for the operation of such vehicles. In designating such streets, the City may authorize ATVs and UTVs to stop at service stations or convenience stores along a designated street.

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

2. Trails. ATVs and UTVs shall not be operated on snowmobile trails except where designated.

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

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

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

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

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

6. Direct Crossing. An ATV or UTV may make a direct crossing of a highway that is not part of the interstate road system provided all of the following occur:

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

A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

B. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

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

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

E. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.

*(Section 75.06 – Ord. 1143 – Oct. 22 Supp.)*

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

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

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

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

**75.09 TOWING.** No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

**75.10 DEAD MAN THROTTLE.** No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

**75.11 PENALTY.** Any violations of this chapter shall be deemed a simple misdemeanor or may be prosecuted as a civil municipal infraction by the City of Sully.

*(Ch. 75 – Ord. 1121 – Oct. 20 Supp.)*

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## CHAPTER 76

### BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

**76.05 BICYCLE PATHS.** Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

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

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

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

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

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

**76.08 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

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

1. Business District. No person shall ride a bicycle 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])*

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

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

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

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

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (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 three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

**76.14 SPECIAL PENALTY.** 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.





## CHAPTER 77

# GOLF CARTS

### 77.01 Definition

### 77.02 Operation of Golf Carts

### 77.03 Unlawful Operation

### 77.04 Violations

**77.01 DEFINITION.** As used in this chapter, “golf cart” means any vehicle with three (3) or more wheels, powered either by electricity or an internal combustion engine, which is used and designed primarily for the transportation of golfers and golf clubs upon golf courses.

### **77.02 OPERATION OF GOLF CARTS.**

1. No person who does not possess a valid motor vehicle driver’s license shall operate a golf cart upon the City streets and alleys.
2. All golf carts when in operation shall be equipped with adequate breaks, a slow-moving vehicle sign and a bicycle flag at least 60 inches in height and shall be operated between sunrise and sunset.
3. Any golf cart operated on the City streets shall have insurance and be equipped with adequate brakes, head lights and tail lights, and shall be operated in accordance with all motor vehicle laws.
4. Golf carts may only be operated on City streets in accordance with State Code. Golf carts may not be operated on First Street/Highway F62 E.
5. Golf carts are required to be registered at City Hall annually and the City shall collect a fee for such registration in the amount of \$25.00 every year.

**77.03 UNLAWFUL OPERATION.** A person shall not operate a golf cart under any of the following conditions on City roads.

1. At a rate of speed greater than the posted speed limit or greater than reasonable or proper under existing circumstances, but in no case above 35 miles per hour.
2. During that time after sunset and before sunrise.
3. In a careless manner such that it creates or causes unnecessary tire squealing, skidding, or sliding upon acceleration or stopping; or simulates a race or causes any wheel or wheels to unnecessarily lose contact with the ground or causes the vehicle to unnecessarily turn abruptly or sway.
4. Without a lighted white light to the front and lighted red light to the rear, both of which shall be installed, functional and on at all times of operation.
5. While under the influence of alcohol, narcotics or drugs. All laws that apply to a motor vehicle also apply to golf carts.
6. A person shall not operate a golf cart unless the operator is 18 years of age or older and has a valid driver’s license.
7. A person shall not operate a golf cart with more persons on the vehicle than it was designed to carry.

8. A person shall not operate a golf cart without using proper turn signals or hand signs.
9. A person shall not operate a golf cart on any snowmobile trails except where designated by the controlling authority and the primary snowmobile trail sponsor.
10. The operation of a golf cart is only permitted on the roadway or shoulder, not in the ditch or the area between the edge of the shoulder to the bottom of the ditch.
11. A person shall have a copy of this ordinance with them at all times of operation.
12. A person shall not allow someone to operate a golf cart in violation of this ordinance.
13. A person shall not operate a golf cart in violation of any County or State law.

**77.04 VIOLATIONS.** Any violation of this chapter shall be deemed a simple misdemeanor, or may be prosecuted as a civil municipal infraction by the City of Sully.

*(Ch. 77 – Ord. 1122 – Oct. 20 Supp.)*

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## CHAPTER 80

### ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Reclamation of Abandoned Vehicles

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

**80.01 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.**

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
  - A. A description of the year, make, model, and vehicle identification number of the vehicle.
  - B. The location of the facility where the vehicle is being held.
  - C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.
  - D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.
  - E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

*(Section 80.03 – Ord. 1130 – Sep. 21 Supp.)*

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

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

*(Section 80.04 – Ord. 1130 – Sep. 21 Supp.)*

**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 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Valve
90.04 Abandoned Connections	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Connection Charge	90.17 Completion by the City
90.07 Compliance with Plumbing Code	90.18 Shutting off Water Supply
90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Cross Connections Prohibited
90.10 Tapping Mains	90.21 Boilers and Pressure Vessels
90.11 Installation of Water Service Pipe	90.22 Line Extensions

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several. Each location, building, premises, dwelling unit or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

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

**90.03 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be

connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

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

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

**90.06 CONNECTION CHARGE.** Before any permit is issued, the person who makes the application shall pay a connection charge in an amount determined by resolution of the Council.

*(Code of Iowa, Sec. 384.84)*

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

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

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

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.



3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

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

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

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

**90.14 CURB VALVE.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground. All costs and expenses incident to the installation, connection and maintenance of the curb valve shall be borne by the owner.

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

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

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

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

**90.18 SHUTTING OFF WATER SUPPLY.** The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

**90.20 CROSS CONNECTIONS PROHIBITED.** No person owning any interest in and to any real estate to which any potable water is supplied or delivered directly or indirectly by the City shall ever allow there to be any type of interconnection, permanent or temporary, with any other water source, either public or private. Due to the potential health hazards of water interconnections, any City officer or employee is authorized and directed to terminate immediately the delivery of water from the City or through its delivery system to any property upon which any violation of this section is reasonably believed to exist unless and until it is clearly shown by the customer at such location that no violation of this section exists.

**90.21 BOILERS AND PRESSURE VESSELS.** Customers having boilers and/or pressure vessels receiving a supply of water from the City must have a check valve on the water supply line and a vacuum valve on the steam line to prevent collapse in case the water supply from the City is discontinued or interrupted for any reason, with or without notice.

**90.22 LINE EXTENSIONS.** The City will construct extensions to its water lines to points within its service area but the City shall not be required to make such installations unless the customer pays to the City the entire cost of the installation. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

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## CHAPTER 91

# WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Irrigation Meters

91.04 Fire Sprinkler Systems- Exception

91.05 Location of Meters

91.06 Meter Setting

91.07 Meter Costs

91.08 Meter Repairs

91.09 Charges for Breaking Seal or Tampering with Meter

91.10 Right of Entry

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

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by a State-licensed plumber at the expense of the customer.

**91.03 IRRIGATION METERS.** Upon approval of the Superintendent, an irrigation meter may also be installed to measure water outside the house, building or premises and that is not disposed of through the public sanitary sewer system. The water measured by an irrigation meter may include water for swimming pools, watering yards, watering gardens or other similar uses. The following regulations apply to irrigation meters.

1. The irrigation meter is to be installed as a totally separate connection and not in series or in conjunction with the first or prime meter. The first or prime meter shall not measure water used outside and measured by the irrigation meter.
2. Meters shall be registered by and purchased from the City at the City's cost plus \$25.00. The expense to install, maintain, and replace the meter will be the property owner's responsibility.
3. Prior to installation of the irrigation meter, the Superintendent shall review and determine whether the meter meets the guidelines, including location and use of the meter.
4. When the connection of the irrigation meter is to an underground irrigation system, a back flow preventer must be installed between the irrigation system and the irrigation meter. The back flow preventer device must be approved by the Superintendent prior to installation. No irrigation systems shall be installed in the public right-of-way.

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

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

**91.06 METER SETTING.** The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter.

Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

**91.07 METER COSTS.** The full cost of any meter larger than a 5/8-inch meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

**91.08 METER REPAIRS.** The property owner customer shall be liable for the cost of repairs to meters.

**91.09 CHARGES FOR BREAKING SEAL OR TAMPERING WITH METER.** If any water meter of the City shall have been tampered with, or if the seal thereon shall have been broken, water service to the premises served by the meter shall be suspended immediately and shall not again be restored until the property owner or customer shall have paid to the City, in addition to any charges for water used and measured and all other charges previously made, the sum of \$250.00 as liquidated damages for water used and not measured together with any costs of the repair and reinstallation of the meter.

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

**CHAPTER 92**  
**WATER RATES**

- |                                 |                            |
|---------------------------------|----------------------------|
| 92.01 Service Charges           | 92.07 Service Discontinued |
| 92.02 Rates For Service         | 92.08 Lien for Nonpayment  |
| 92.02A Annual Rate Review       | 92.09 Lien Exemption       |
| 92.03 Rates Outside the City    | 92.10 Lien Notice          |
| 92.04 Billing for Water Service | 92.11 Connection Charge    |
| 92.05 Estimated Readings        | 92.12 Temporary Vacancy    |
| 92.06 Construction Use          |                            |

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

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Each customer shall pay water service charges as follows:

1. Base Rate Access Fee. There shall be a minimum base rate access fee of \$15.00 per month.

The base rate access fee applies regardless of if there is any actual water usage with the exception that the base rate access fee will not apply when billing for an irrigation meter installed under Section 91.03. Where necessary, such fees shall be pro-rated based upon the foregoing full month base rate access fee and gallons of water used on a per diem basis. Such fees are applicable in like amount whether the subject location is served by a City water connection or by a private water system.

2. Additional Usage Fee. In addition to the base rate access fee, there shall be an added usage fee based upon actual usage of water furnished. The monthly rate shall be based on the following schedule:

Effective Date	Rate per 1,000 gallons
April 1, 2024	\$8.48
July 1, 2024	\$8.65
July 1, 2025	\$8.82
July 1, 2026	\$9.26
July 1, 2027	\$9.45

If the Iowa Regional Utilities Association has an increase of its prices, there will be an equal increase done at once by the City.

*(Section 92.02 – Ord. 1154 – Oct. 24 Supp.)*

**92.02A ANNUAL RATE REVIEW.** In May of each year, the City Council shall review the current water rates and by resolution, state the water rates per Section 92.02 for the following fiscal year.

*(Ord. 1144 – Oct. 23 Supp.)*

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred twenty-five percent (125%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

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

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

1. Meters Read. Water meters shall be read or estimated each month.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the last day of the month.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 15th of each month.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the current amount due shall be added to each delinquent bill.

*(Section 92.04 – Ord. 1141 – Oct. 22 Supp.)*

**92.05 ESTIMATED READINGS.** Where a meter has ceased to register, or meter readings could not be obtained, the quantity of water consumed for billing purposes will be based upon an average of the prior six (6) months' consumption, and the conditions of water service prevailing during the period in which the meter failed to register.

**92.06 CONSTRUCTION USE.** Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being ten dollars (\$10.00); and the amount to be determined by the City, depending upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one and the same meter. Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench and all use of water by other than the applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice.

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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant

and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. **Hearing.** If a hearing is requested within ten (10) days the Hearing Board<sup>†</sup> shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Hearing Board's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. **Service Fee.** A \$40 service fee shall be charged if a shut-off notice door hanger is placed on a residential door. A \$40 service fee shall be charged for the first shut-off (water service disconnection) in a calendar year. A \$100 service fee shall be charged for the second and each subsequent shut-off (water service disconnection) in a calendar year. The shut-off service fee schedule shall reset on January 1 of each year. The City Clerk is given the authority to use his/her discretion in charging the service fees if financial hardship is discerned for a particular customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

*(Ord. 1154 – Oct. 24 Supp.)*

*(Ord. 1112 – Jan. 18 Supp.)*

**92.08 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes, together with a collection fee of \$20.00.

*(Code of Iowa, Sec. 384.84)*

**92.09 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

1. **Water Service Exemption.** The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may

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<sup>†</sup> Hearing Board consists of the Water Committee and Mayor.

require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

*(Ord. 1090 – Aug. 14 Supp.)*

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

*(Subsection 4 – Ord. 1105 – Jan. 18 Supp.)*

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

*(Code of Iowa, Sec. 384.84)*

**92.11 CONNECTION CHARGE.** The person who makes the application for service shall pay a connection charge in the amount of seventy-five dollars (\$75.00) to reimburse the City for costs borne by the City in making water service available to the property served.

*(Section 92.11 – Ord 1139 – Oct. 22 Supp.)*

**92.12 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. During a period when service is temporarily disconnected as provided herein there shall be no fee collected for shutting water off at the curb valve; however, there shall be a twenty-five dollar (\$25.00) fee collected for restoring service and the minimum quarterly water service rate shall be charged. The City will not drain pipes or pull meters for temporary vacancies.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

**95.01 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 (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (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. Each location, building, premises, dwelling unit or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (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 eighteen (18) months after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) 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.

## 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 Abandoned Connections

96.09 Inspection Required

96.10 Property Owner's Responsibility

96.11 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.** Before any permit is issued, the person who makes the application shall pay a connection charge in an amount determined by resolution of the Council.

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

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

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

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

3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of the *State Plumbing Code*, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the 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. - SDR26 - A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the 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 provided by 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 ABANDONED CONNECTIONS.** When an existing sewer service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be disconnected at the "Y" and made absolutely watertight.

**96.09 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.

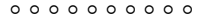
#### **96.10 PROPERTY OWNER'S RESPONSIBILITY.**

1. Unless designated as a "special project property" by procedure described in this section, 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.
2. If a private sewer service line within a designated project area is otherwise adequate and intact, but because of design and materials and age of the service line it is determined to be of the type that allows excessive groundwater and/or surface water into the City sanitary sewer that property can be designated a "special project property" eligible for municipal funds to be used for some or all of the replacement costs.
3. The following criteria will be considered by the City engineering consultant to determine if service line replacement will be eligible for inclusion under "special project property:"
  - A. Lines made of clay or ceramic.
  - B. Lines more than 20 years old.
  - C. Lines with atypical connections to sanitary main in terms of length or location.
  - D. Visual inspection of clear water discharge from lines into sanitary main through televising.
4. Upon determination that a number of properties within a designated project area qualify for a replacement project, the proposed project may be voted on by resolution approving the project. Upon the passing of such a resolution, notice of the list of special project properties will be published.
5. Residents within the designated project area who are not on the list of properties and believe inclusion of their properties would be in the best interests of the community may file an appeal with the Clerk within twenty (20) days of published notice. Appeal is before City Council.
6. Upon appeal the City Council may vote to include a property as a special project property upon a finding that any of the following is true:
  - A. If there was a mistake in facts that lead to the property not being included.
  - B. If it would make sense from a construction standpoint to include said property.
  - C. Upon reconsideration of engineer to include said property.
  - D. If it is in the best interest of the community to include said property.
7. Determination of City Council on appeal shall be a final determination.



**96.11 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 either of the following apply:

1. Such discharge is deemed necessary or advisable for purposes of flushing.
2. Due to extreme or unusual circumstances, the enforcement of Section 97.01 would create a significant hardship upon the person discharging, or causing to be discharged, surface drainage as provided in said section, and where the allowance of the discharge prohibited by said section will not significantly affect the interests sought to be protected by said section.

Any permits so issued shall be subject to revocation at any time when deemed by the Council to be in the best interests of the sewer system.

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides 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 (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) 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 three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (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 (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (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 thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ( $\frac{1}{2}$ ) 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 or 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 of 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 twenty-four (24) hour composite of all outfalls of a premise 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 twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

## CHAPTER 98

### ON-SITE WASTEWATER SYSTEMS

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

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

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

*(Code of Iowa, Sec. 364.12[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.

**98.09 MINIMUM LOT AREA.** No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than fifteen hundred (1500) square feet.



## CHAPTER 99

# SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Rates for Service  
99.02A Annual Rate Review  
99.03 Special Rates  
99.04 Private Water Systems

99.05 Payment of Bills  
99.06 Lien for Nonpayment  
99.07 Special Agreements Permitted  
99.08 User Notification  
99.09 Precedence

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service fees as hereinafter provided. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance, including replacement of the treatment works, will be established by this chapter.

**99.02 RATES FOR SERVICE.** Sewer service shall be furnished at the following rates:

1. Sewer Service Charges. Each customer shall pay sewer service charges in the amount of \$17.60 base rate per month plus a service usage charge based upon the amount of water consumed. The base rate fee applies whether or not there is any service/water usage. Where necessary, such charges shall be pro-rated based upon the foregoing full month base fee and gallons of water used on a per diem basis. Such charges are applicable in like amount whether the subject location is served by a City water connection or by a private water system.

2. Service Usage Charge. In addition to the sewer service base charge, there shall be an added service usage charge. The monthly service usage charge shall be based on the following schedule:

Effective Date	Rate per 1,000 gallons
July 1, 2024	\$5.78
July 1, 2025	\$5.90
July 1, 2026	\$6.02
July 1, 2027	\$6.14

3. Outside the City. Sewer service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred twenty-five percent (125%) of the normal rates. No such customer, however, will be served unless the customer shall have signed a service agreement agreeing to be bound by the ordinances, rules, and regulations applicable to sewer service established by the Council.

*(Section 99.02 – Ord. 1155 – Oct. 25 Supp.)*

**99.02A ANNUAL RATE REVIEW.** (Repealed by Ordinance No. 1155 – Oct. 24 Supp.)

**99.03 SPECIAL RATES.** Any user that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or

any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the Superintendent and approved by the Council. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer service charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, the Council may, by resolution, establish a special rate for such customer.

**99.04 PRIVATE WATER SYSTEMS.** Persons owning real estate within the City which is connected to the City's sanitary sewer system and which is served by a private water system shall, at their own expense, install and thereafter maintain suitable water metering equipment to effectuate and sustain prompt and accurate metering of water usage sufficient to implement the City's system of sanitary sewer service charges.

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

**99.05 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.07 if the combined service account becomes delinquent, and the provisions contained in Section 92.10 relating to lien notices shall also apply in the event of a delinquent account.

**99.06 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.09 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.07 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.

**99.08 USER NOTIFICATION.** The City shall notify each user at least annually, in conjunction with a regular bill, of the sewer rate being charged.

**99.09 PRECEDENCE.** The user charge system takes precedence over any terms and conditions of agreements or contracts between the City and users (including industrial users, special districts, other municipalities or Federal agencies or installations) that are inconsistent with the requirements of Section 204(b)(1)(A) of the Federal Clean Water Act and the corresponding regulations.

## CHAPTER 100

# SURFACE WATER DRAINAGE SURCHARGE AND SUMP PUMP PROGRAM FUND

100.01 Purpose

100.02 Presumption of Noncompliance

100.03 Request for Certification of Compliance

100.04 Imposition of Surcharge

100.05 Sump Pump Program Fund Established

100.06 Disbursement of Sump Pump Program Fund Moneys

100.07 Payment of Surcharge

100.08 Effective Date

**100.01 PURPOSE.** Section 97.01 of this Code of Ordinances provides, in part, that storm water, surface water, and other types of surface drainage specified therein shall not be discharged into the sanitary sewer system. It has come to the attention of the Council that there may be a significant number of violations of this Code provision by property owners within the City. These violations have, in turn, created a significant inflow and infiltration problem for the sanitary sewer system of the City to the extent that the Iowa Department of Natural Resources has mandated a twenty percent (20%) reduction of inflow and infiltration within the City's sanitary sewer system. In order to bring all properties located within the City into compliance with the provisions of Section 97.01, and thereby help meet the objectives mandated by the Iowa Department of Natural Resources, the Council proposes to impose a surcharge upon all properties which do not comply with Section 97.01 of this Code of Ordinances, and to use the funds thus collected to encourage property owners to come into compliance with said Section through a program of partial reimbursement of certain costs and expenditures incurred by the property owners in bringing the properties into compliance.

**100.02 PRESUMPTION OF NONCOMPLIANCE.** As of the effective date of the ordinance codified in this chapter, as specified in Section 100.08, all properties located within the corporate boundaries of the City shall be presumed to be in noncompliance with the provisions of Section 97.01 of this Code.

**100.03 REQUEST FOR CERTIFICATION OF COMPLIANCE.** In order for a property to come into compliance with Section 97.01, it shall be necessary for a Certificate of Compliance to be issued by the Superintendent. It shall be the responsibility of the property owner to request the Superintendent for a Certificate of Compliance. Upon receipt of such a request, it shall be the duty of the Superintendent to promptly inspect the property and to determine whether or not the property complies with Section 97.01 of this Code of Ordinances. Without limiting the generality of the showing necessary with regard to Section 97.01, it shall specifically be necessary to show that any type of bypass device which would enable surface drainage as defined in Section 97.01 to be drained directly into the sanitary sewer system be permanently removed, capped, or plugged. If it is determined that the property is in compliance with Section 97.01, the Superintendent shall issue a Certificate of Compliance. If it is determined that the property is not in compliance, or if the Superintendent is unable to determine the status of the property, the Superintendent shall advise the property owner of the steps necessary to bring the property into compliance, or of the steps necessary to properly determine the status of the property, as the case may be. The services of the Superintendent in determining the issue of compliance and in issuing the certificate of compliance shall be without charge to the property owner. To the extent the services of the Superintendent are inadequate to determine the issue of compliance, any additional costs incurred by the property owner with regard to the status of the property shall be the responsibility of the property owner and may be

subject to reimbursement from the Sump Pump Program Fund established in this chapter. A request by the property owner for a determination of the issue of compliance shall be deemed to include permission by the property owner for the Superintendent to enter upon the property and to inspect the same, including the right to enter into any improvements and buildings which are located on the property at reasonable times and places.

**100.04 IMPOSITION OF SURCHARGE.** Commencing with the effective date of the ordinance codified in this chapter, as specified in Section 100.08, there is hereby imposed against the owner of a property a surcharge in accordance with the following schedule:

Time Period Effective	Amount of Surcharge
First Three Years After Effective Date	\$7.50 per month
Fourth Year After Effective Date	\$15.00 per month
Fifth Year After Effective Date	\$22.50 per month
Sixth Year After Effective Date and Thereafter	\$30.00 per month

for each month, or part of each month, for which a property located within the corporate boundaries of the City has not been certified as being in compliance with Section 97.01 of this Code of Ordinances. Funds collected pursuant to this surcharge shall be deposited in the Sump Pump Program Fund hereinafter established.

**100.05 SUMP PUMP PROGRAM FUND ESTABLISHED.** There is hereby established a fund entitled “Sump Pump Program Fund.” Funds collected by the City pursuant to Section 100.04 above shall be deposited into this fund and shall be disbursed as hereinafter set forth.

**100.06 DISBURSEMENT OF SUMP PUMP PROGRAM FUND MONEYS.** In order to encourage property owners to comply with Section 97.01 of this Code, funds deposited into the Sump Pump Program Fund shall be made available for disbursement to property owners in reimbursement of investigation and installation activities necessary to achieve compliance with Section 97.01. Reimbursement shall be made upon the following terms and conditions:

1. Eligible expenditures shall be those which are actually incurred by the property owner for the following purposes:
  - A. Investigation activities necessary to assist the property owner in determining the status of the property with regard to compliance with Section 97.01 of this Code and in locating the connections which are not in compliance with said section.
  - B. Installation of a sump pump and/or other materials and equipment necessary to bring the property into compliance with Section 97.01 and to allow removal, capping or plugging of the connections which are not in compliance with said section. Examples of the foregoing expenditures would be the cost of a sump pump, related wiring and plumbing, tiling, materials and supplies associated therewith, and labor necessary to perform the work.

Funds cannot be disbursed for reimbursement of costs related to landscaping, connection of the drain to the storm sewer system, or other items not normally associated with investigation and installation as set forth above.

2. The amount of funds which may be reimbursed to a property owner shall be seventy-five percent (75%) of the eligible expenditures with a maximum reimbursement in accordance with the following schedule:

Time Period Effective	Maximum Amount of Reimbursement
First Three Years After Effective Date	\$750.00
Fourth Year After Effective Date	\$500.00
Fifth Year After Effective Date	\$250.00
Sixth Year After Effective Date and Thereafter	\$0.00

3. Reimbursement shall be made for eligible expenditures on a “first come - first served basis” and only if there are sufficient funds in the Sump Pump Program Fund, unless the Council, by resolution, allocates funds from other sources for the reimbursement purposes set forth herein.

4. In order to be eligible for reimbursement, the property owner shall submit an application for reimbursement to the Clerk on a form furnished by the City. The application shall itemize the costs incurred by the property owner and shall include copies of receipts paid by, or invoices submitted to, the property owner. The Clerk shall review and investigate the information contained on the application and make a determination of the eligibility of the expenditures for reimbursement. To the extent that the decision of the Clerk is against reimbursement, the Clerk’s decision may be appealed to the Council. The decision of the Council with regard to eligibility for reimbursement shall be final. The property owner may, prior to commencement of the investigation and/or installation work, submit an estimate of the nature and cost of the work to be performed, and receive a determination by the Clerk as to whether or not the cost of the work, if the terms and conditions of this section are otherwise met, will be available for reimbursement. In no event shall reimbursement be made unless the property in question has been brought into compliance with Section 97.01 of this Code of Ordinances, and in all events, the amount of reimbursement shall be based upon actual costs incurred.

**100.07 PAYMENT OF SURCHARGE.** The surcharge established pursuant to this chapter is due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.07 if the combined service account becomes delinquent, and the provisions contained in Chapter 92 concerning a lien for nonpayment of the account shall also apply in the event of failure to pay the surcharge.

**100.08 EFFECTIVE DATE.** The ordinance codified in this chapter shall be in effect after its final passage, approval and publication as provided by law, except that the provisions of Section 100.04 concerning the imposition of a surcharge shall become effective on June 1, 1997.

[The next page is 501]

## CHAPTER 105

# SOLID WASTE CONTROL

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

**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” or “contractor” means any person authorized to gather solid waste from public and private places.

2. “Discard” means to place, or 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, and grass, shrubbery and yard trimmings.  
*(IAC, 567-20.2[455B])*

6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.  
*(Code of Iowa, Sec. 455B.361[2])*  
*(Ord. 1104 – Jan. 18 Supp.)*

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. “Recyclable solid waste” means household waste, which, until such time that the waste is recycled, reused, or processed in a manner that the waste is reintroduced into the

economic stream as raw or usable materials, or until such time that the waste is delivered to a facility operated in accordance with Iowa Department of Natural Resources (IDNR) criteria, is considered solid waste. For the purpose of this chapter, recyclable solid waste includes, but is not limited to: glass, tin cans, plastics (#1-7 and plastic milk jugs), aluminum foil, newsprint [newspaper, magazines, phone books, junk mail, newsprint with glossy inserts, office paper, computer paper, chipboard (e.g. cereal boxes)], and corrugated cardboard, but does not include construction debris, demolition debris or yard waste.

9. “Recycling bin” means a container of suitable size to contain recyclable solid waste, and which is designed to prevent dispersion of the waste and should allow the city's contractor to easily identify the contents as being recyclable items. Recycling bins will be provided by the residential customer.

10. “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)*

11. “Residential customer” means any person or household residing within the corporate limits of the City whose dwelling unit is a single-family residence or part of a multiple-family complex which contains no more than four (4) dwelling units.

12. “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])*

13. “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)*

14. “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)*

15. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

16. “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.
- F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.
- G. Post-use polymers or recoverable feedstocks that are any of the following:
  - (1) Processed at a pyrolysis or gasification facility.
  - (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

*(Subsections 15-16 – Ord. 1119 – Sep. 19 Supp.)*

17. “Tote” means a durable, rigid-wall plastic container with a hinged lid, and wheels designed to provide adequate support to roll when fully-loaded with household waste. Totes shall be 65-gallon size. The specifications, design and color of the tote, including any hot stamps or logos, shall be approved by the City Council.

*(Ord. 1097 – Aug. 15 Supp.)*

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all solid waste accumulating on the owner’s premises before it becomes a nuisance. Any unauthorized accumulation, dispersion or disposal of the solid waste on any premises maybe considered a nuisance and the City may proceed to abate such nuisance in accordance with the provisions of this Code of Ordinances.

*(Code of Iowa, Ch. 657)*

*(Ord. 1097 – Aug. 15 Supp.)*

**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, 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 (1/4) 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. Yard Waste Burning. The open burning of yard waste on the property where such yard waste is generated, at dwellings of four-family units or less.

*(IAC, 567-23.2[3f] and 567-20.2[455B])*

7. 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])*

8. 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])*

9. Additional Burning Restrictions. The following restrictions shall apply to any open burning permitted:

A. No person shall kindle, maintain or assist in maintaining any fire in any place where buildings or other property or persons are exposed to danger thereby.

B. Open fires shall be constantly attended by an adult until such fire is extinguished, and no person shall start such fire without first being prepared and equipped to keep same under control.

C. Burning shall be completed during daylight hours.

D. Burning cannot occur if the State Fire Marshal or the Jasper County Supervisors or the Mayor or the City Council have declared a burning ban.

E. No burning shall be allowed on any street, sidewalk or alley.

F. The burning of garbage, refuse, rubbish, litter, furniture or any materials is prohibited.

G. The burning of any materials generated from a different location is prohibited.

**105.06 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)*

**105.07 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, if such materials do not contain solid waste. Rubble includes asphalt waste only as long as it is not used in contact with water 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)*

*(Ord. 1097 – Aug. 15 Supp.)*

**105.08 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste 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. Any person having control over a hazardous substance is strictly liable to the City and will be assessed clean up costs and evacuation costs incurred, the excessive and extraordinary costs incurred in responding at and to the scene of a hazardous condition caused by that person, and applicable punitive damages.

*(IAC, 567-100.2)*

*(IAC, 567-102.13[2] and 400-27.14[2] and Code of Iowa 455B.392)*

**105.09 SOLID WASTE STORAGE/COLLECTION CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall, at all times, maintain in good order and repair approved solid waste collection containers.

1. Storage Containers for Residential Customers. Each residential customer shall be issued a tote for household waste collection services. Residential customers will be held responsible for the totes issued to them until the date of termination of solid waste service. With the exception of damage caused by the City's contractor, residential customers shall be responsible for the condition of totes issued to them. A service fee shall be charged to repair or replace a damaged or lost tote.

2. Storage Containers for Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
3. Storage of Containers. Residential solid waste containers and recycling bins shall be stored upon the residential premises behind the line of the front wall of the primary structure. 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 leaving the premises except at collection.
4. Location of Containers for Collection. Totes for the storage of solid waste and recycling bins may be set out for collection inside the City's right-of-way at the curb no sooner than 18 hours prior to the collection day, and must be removed from the collection site within 12 hours after the collection event, regardless of whether or not the solid waste and recyclables were collected.
5. Nonconforming Containers. Solid waste containers and recycling bins which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

*(Ord. 1097 – Aug. 15 Supp.)*

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The Newton Sanitary Landfill facilities operated by the City of Newton are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

## 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 residential customers only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises. Such contract shall be with a private or public solid waste contractor upon such terms and conditions as the Council deems appropriate.

*(Ord. 1097 – Aug. 15 Supp.)*

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

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

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at frequencies and at times determined by the City Council, and from commercial, industrial and institutional premises as frequently as may be necessary to prevent odors or other health hazard or nuisance, but not less than once each week.

*(Ord. 1097 – Aug. 15 Supp.)*

**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 residential customers 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.

*(Ord. 1097 – Aug. 15 Supp.)*

**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 a fee therefore in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Fee for Collection. The monthly fee for solid waste collection and disposal service for each single family residence and for each dwelling unit of multi-family residences and other fees or service fees will be set by the Council by resolution. The monthly fee is for each residential customer and will apply whether or not the service is used. The monthly fee is for one tote which complies with the specifications set forth in Section 105.09 of this Code of Ordinances.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.07 if the combined service account becomes delinquent, and the provisions contained in Section 92.10 relating to lien notices shall also apply in the event of a delinquent account.

*(Ord. 1097 – Aug. 15 Supp.)*

**106.09 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.09 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, together with a collection fee of \$20.00.

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

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**CHAPTER 107**  
**YARD WASTE**

**107.01 Definitions**  
**107.02 Disposal of Grass Clippings**  
**107.03 Disposal of Leaves**

**107.04 Disposal of Brush, Shrubs and Tree Limbs, Bark  
and Branches**  
**107.05 Emergency Powers**

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

1. “City’s solid waste contractor” means the individual or company designated from time to time by the Council to hold the City contract for the collection and transportation of solid waste within the City limits of the City.
2. “On-site” means the private property producing the yard waste subject to disposal, and excludes the surface of public sidewalks, streets and alleys adjacent to such private property.
3. “Private lawn service company or provider” means a private individual or company providing lawn care services to customers.
4. “Private tree service company or provider” means a private individual or company providing tree services to customers.
5. “Yard waste” means organic debris produced from property located within the City limits as part of yard and garden development and maintenance, consisting of grass clippings, vegetables and plants, leaves and brush, shrubs, tree limbs, bark and branches.

**107.02 DISPOSAL OF GRASS CLIPPINGS.** Grass clippings shall be separated from other solid waste and disposed of only as follows:

1. On-site composting, mulching or dispersal.
2. On-site collection and transfer to a private lawn service company or provider for (a) composting, mulching or dispersal on private property in such a manner as to comply with all City, County, State and Federal laws, or (b) delivery by said private lawn service company or provider to the City Public Sanitary Disposal Project subject to fees to be established from time to time by the Council by resolution.
3. Delivery to a suitable Public Sanitary Disposal Project subject to fees to be established from time to time by the owner or operator of such project or by the Council by resolution.
4. Deposited in City provided dumpster located at the Sully Public Works Building, 503 6<sup>th</sup> Street, Sully, Iowa, and subject to all posted signs, directions, and fines.  
*(Ord. 1136 – Oct. 22 Supp.)*

**107.03 DISPOSAL OF LEAVES.** Leaves shall be separated from other solid waste and disposed of only as follows:

1. On-site composting or mulching.
2. On-site burning, in accordance with all City, County, State and Federal laws.

3. On-site collection and transfer to a private lawn service company or provider for (a) composting or mulching on private property in such a manner as to comply with all City, County, State and Federal laws, or (b) delivery by said private lawn service company or provider to the City Public Sanitary Disposal Project subject to fees to be established from time to time by the Council by resolution.
4. Delivery to a suitable Public Sanitary Disposal Project subject to fees to be established from time to time by the owner or operator of such project or by the Council by resolution.
5. Deposited in City provided dumpster located at the Sully Public Works Building, 503 6<sup>th</sup> Street, Sully, Iowa, and subject to all posted signs, directions, and fines. *(Ord. 1137 – Oct. 22 Supp.)*

**107.04 DISPOSAL OF BRUSH, SHRUBS AND TREE LIMBS, BARK AND BRANCHES.** Brush, shrubs and tree limbs, bark and branches shall be separated from other solid waste and disposed of only as follows:

1. On-site chopping, sawing or splitting, for use in home fireplaces or stoves.
2. On-site burning in accordance with all City, County, State and Federal laws.
3. On-site collection and transfer to a private tree service company or provider for (a) chopping, sawing or splitting and subsequent sale for use in home fireplaces or stoves, or (b) delivery by said private tree service company or provider to such site or sites as may from time to time be established by the Council, subject to fees to be established from time to time by the Council by resolution.
4. Delivery directly to such site or sites as may from time to time be established by the Council, subject to fees to be established from time to time by the Council by resolution.
5. Deposited in City provided bunker located at the Sully Public Works Building, 503 6<sup>th</sup> Street, Sully, Iowa, and subject to all posted signs, directions, and fines. *(Ord. 1138 – Oct. 22 Supp.)*

**107.05 EMERGENCY POWERS.** Upon the occurrence of a natural disaster, the Council, at any regular or special meeting, may declare by resolution a City emergency and establish special procedures for the disposal of brush, shrubs and tree limbs, bark and branches.

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## CHAPTER 110

# NATURAL GAS FRANCHISE

**110.01 Franchise Granted**  
**110.02 Safe Operation Required**  
**110.03 Construction and Excavations**

**110.04 Uninterrupted Service**  
**110.05 Nonexclusive**  
**110.06 Term of Franchise**

**110.01 FRANCHISE GRANTED.** There is hereby granted to IES UTILITIES, INC., hereinafter referred to as the “Company,” its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years subject to a limited right of cancellation at the end of the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) and twentieth (20<sup>th</sup>) year anniversaries of the Anniversary Date as defined within; from and after the passage, adoption, approval and acceptance of the ordinance codified by this chapter, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted for the purpose of distributing, supplying and selling gas to the City and the residents thereof and to persons and corporations beyond the limits thereof; also the right to eminent domain as provided in Section 364.2 of the Code of Iowa. The term “gas” as used in this chapter shall be construed to mean natural gas only.

**110.02 SAFE OPERATION REQUIRED.** The mains and pipes of the Company must be so placed so as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in the City nor unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of the natural gas distribution system.

**110.03 CONSTRUCTION AND EXCAVATIONS.** In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall backfill all opening in such manner as to prevent settling or depressions in the surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

**110.04 UNINTERRUPTED SERVICE.** The Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

**110.05 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**110.06 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company. The City may cancel this franchise on the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) or twentieth (20<sup>th</sup>) anniversary of the Anniversary Date of this franchise by notifying the Company in writing of its desire to do so, said notification to be given within thirty (30) days of the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) or twentieth (20<sup>th</sup>) anniversary respectively of this franchise. If the Company is not notified of the cancellation by the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) or twentieth (20<sup>th</sup>) anniversary, then this franchise shall continue without cancellation until the twenty-fifth (25<sup>th</sup>) year. The Anniversary Date shall be the date this franchise is filed with the City Clerk or otherwise effective by operation of the law.

**EDITOR'S NOTE**

Ordinance No. 1027 adopting a gas franchise for the City was passed and adopted on December 10, 2001.

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## CHAPTER 111

# ELECTRIC FRANCHISE

111.01 Franchise Granted

111.02 Construction; Maintenance; Indemnification

111.03 Meters and Service Lines

111.04 System Requirements

111.05 Nonexclusive

111.06 Continuous Service

111.07 Term of Franchise

**111.01 FRANCHISE GRANTED.** There is hereby granted to IES UTILITIES, INC., hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years subject to a limited right of cancellation at the end of the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) and twentieth (20<sup>th</sup>) year anniversaries of the Anniversary Date as defined within; also the right to eminent domain as provided in Section 364.2 of the Code of Iowa.

**111.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION.** The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**111.03 METERS AND SERVICE LINES.** The Company, its successors and assigns shall furnish and install all meters at its own expense and shall provide the service wire to buildings as set forth in the Company’s tariff filed with the Iowa Utilities Board.

**111.04 SYSTEM REQUIREMENTS.** The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

**111.05 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**111.06 CONTINUOUS SERVICE.** Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company’s equipment, and in such event service shall be resumed as quickly as is reasonably possible.

**111.07 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after

its acceptance by the Company. The City may cancel this franchise on the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) or twentieth (20<sup>th</sup>) anniversary of the Anniversary Date of this franchise by notifying the Company in writing of its desire to do so, said notification to be given within thirty (30) days of the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) or twentieth (20<sup>th</sup>) anniversary respectively of this franchise. If the Company is not notified of the cancellation by the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), fifteenth (15<sup>th</sup>) or twentieth (20<sup>th</sup>) anniversary, then this franchise shall continue without cancellation until the twenty-fifth (25<sup>th</sup>) year. The Anniversary Date shall be the date this franchise is filed with the City Clerk or otherwise effective by operation of the law.

**EDITOR'S NOTE**

Ordinance No. 1026 adopting an electric franchise for the City was passed and adopted on December 10, 2001.

## CHAPTER 112

# TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Construction; Maintenance; Indemnification

112.03 Emergencies

112.04 Meters — Service Lines

112.05 System Requirements

112.06 Nonexclusive

112.07 Service Provided

112.08 Term of Franchise

**112.01 FRANCHISE GRANTED.** There is hereby granted to the Sully Telephone Association, an Iowa corporation with its principal place of business in the City, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the operation of a telephone system and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for such system along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with a telephone system for a period of twenty-five (25) years.

**112.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION.** The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City and the Company and its successors and assigns shall hold the City free and harmless from all damages arising or resulting from any negligence of the Company in the erection or maintenance of the telephone system. In the event any City streets or other City property should be disturbed in the erection and/or maintenance of the Company’s poles, lines, wires, conduits and other appliances, the Company shall restore said streets or property to substantially the same condition they were in before the disturbance.

**112.03 EMERGENCIES.** In case of fire or other emergencies, the poles, wires and street fixtures of the Company may be cut and moved by order of the Mayor.

**112.04 METERS — SERVICE LINES.** The Company, its successors and assigns shall furnish and install all meters and service wires to buildings at its own expense and the City expressly reserves the right of the Council to carry out any and all powers and duties as provided by law.

**112.05 SYSTEM REQUIREMENTS.** The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern up-to-date condition.

**112.06 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**112.07 SERVICE PROVIDED.** Service to be rendered by the Company under this franchise shall be continuous twenty-four (24) hour service each day of the week unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, and in such event service shall be resumed as quickly as is reasonably possible.

**112.08 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company.

**EDITOR'S NOTE**

Ordinance No. 94 adopting a telephone franchise for the City was passed and adopted on October 6, 1975.

[The next page is 571]

## CHAPTER 115

### USE OF PUBLIC PROPERTY AND RIGHT-OF-WAY

115.01 Purpose and Rule of Interpretation	115.09 Design Notice to City
115.02 Franchise, License or Lease Required	115.10 Above-Ground Cables, Wires, Conduits and Poles
115.03 Limit on Term	115.11 Assignment
115.04 Placement of Facilities	115.12 No Property Right
115.05 Indemnification and Bond	115.13 Forfeiture
115.06 Regulation by the City	115.14 Application
115.07 Construction and Excavation by Holders	115.15 Home Rule
115.08 City Construction and Paving	115.16 New Technologies

**115.01 PURPOSE AND RULE OF INTERPRETATION.** The purpose of this chapter is to establish uniform rules and controls to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize streets and other public property for the delivery of utility or other services, in order to protect public and private investment, ensure orderly use of public property and ensure the health, safety and welfare of the population, and to provide for the regulation and administration of the public streets and other public property. This chapter is to be interpreted in light of these findings for the benefit of the public and users of the streets and other public property.

**115.02 FRANCHISE, LICENSE OR LEASE REQUIRED.** No person or other entity shall use the public right of way or other public property without first obtaining a franchise, license or lease from the City. The City shall not enter into or issue any franchise, license or lease that grants exclusive rights. An application for a license or lease shall be filed with the Clerk on a form provided by the City and shall include as a minimum the following information: the name, address and telephone number of the applicant; the name, address and telephone number of a person whom the City may notify or contact at any time concerning the license or lease; an engineering site plan showing the proposed location of the facilities including any manholes, the size, type and proposed depth of any conduit or other enclosures; and any additional information the City may require. All licenses or license or leases required by this section shall be granted by the Council.

**115.03 LIMIT ON TERM.** No franchise, license or lease for use of the public right-of-way or other public property shall be granted for a term exceeding 25 years.

**115.04 PLACEMENT OF FACILITIES.** The facilities, fixtures and equipment of the distribution, transmission or sale of any utility services, or services provided under license or lease or easement, shall be placed and maintained so as not to unnecessarily or unreasonably interfere with the travel on the streets, highways, avenues, alleys, bridges and public places in the City, nor shall such facilities, fixtures and equipment interfere with the proper use of the same, including, but not limited to, ordinary drainage, or the functioning of the sewers, underground pipe or other property of the City. In the event that facilities, fixtures and equipment of any person located within a public right-of-way must be relocated because of paving, road construction or road reconstruction, sewer construction or sewer reconstruction, or the construction or reconstruction of public drainage systems or similar public works or the construction or reconstruction of the facilities of any City-owned utility, such relocation, at the written request of the City, shall be completed by the owner of such facilities at the owner's cost. The City shall upon request of any person holding a franchise, license or lease, review

any plans for the construction of facilities, fixtures and equipment within the public right-of-way and advise the person of any conflict such construction may have with planned or anticipated public improvements, but failure of the City to so advise such person will not relieve the owner of such facilities of its obligations under this chapter. Notwithstanding the foregoing, the City public works director may require placement of equipment or facilities belonging to any holder of a franchise, license or lease be limited to locations designated by the City public works director if such limitation is deemed by the public works director to be necessary to protect the integrity of use of present and future users of the public right-of-way or other public property.

**115.05 INDEMNIFICATION AND BOND.** The holder of any franchise, license or lease shall indemnify and hold the City harmless at all times during the term of the franchise, license or lease from and against all claims for injury or damage to any person or property, including payments under worker's compensation laws, caused by the construction, erection, operation or maintenance of its facilities, fixtures or equipment, or the negligence of its contractors or its employees. In case of any suit or action at law being commenced against the City, upon any claim for damage arising out of any loss, injury or damage claimed to have been caused by any installation, improvement, obstruction or excavation made or left in, under or upon such street, sidewalk, alley or public place by the holder of a franchise, license or lease, its agents, contractors or employees, upon being notified in writing by the City of such action or proceeding, the holder of said franchise, license or lease shall appear and make proper defense thereto at the expense of the holder of the franchise, license or lease; and if any judgment or decree shall in any such case be rendered against the City therein, the holder of said franchise, license or lease shall assume, pay and satisfy such judgment or decree, with the cost thereof. Immediately upon issuance of the franchise, license or lease, the holder of the franchise, license or lease shall purchase general liability insurance. The amount of insurance shall be a minimum of \$1,000,000 with a maximum deductible of \$5,000. The holder of the franchise, license or lease shall file with the Clerk a certificate of insurance which clearly discloses on its face coverage in conformity with these requirements. Upon request of the City, the holder of the franchise, license or lease shall submit a certified copy of the policy.

**115.06 REGULATION BY THE CITY.** The City reserves the right to make reasonable general regulations for the use of streets and other public property which unless otherwise specifically provided shall apply to any holder of a franchise, license or lease.

**115.07 CONSTRUCTION AND EXCAVATION BY HOLDERS.** A written permit will be obtained from the Clerk whenever it becomes necessary for the holder of any franchise, license or lease to excavate in streets or public grounds of the City. Such permits shall state a particular part or point of the street where the excavation is to be made and the length of time in which such permit shall authorize the work to be done. An exception to a requirement for a permit shall be made in cases of emergency involving public safety, in which case a permit will be obtained at the earliest opportunity after the work has started. In making excavations in the streets, the holder of any franchise, license or lease shall proceed with such work as to cause the least possible inconvenience to the public. The holder of any franchise, license or lease shall properly protect, according to safety standards generally accepted at the time of placement, all excavations and obstructions by proper placement of shoring, surface plates, barricades, warning lights and such other or additional devices as circumstances may warrant. Immediately after use, any trenches for excavations which the holder of a franchise, license or lease has opened shall be filled. However, no trench or excavation in the streets shall be filled or covered without giving the City the right to inspect the same. The holder of the franchise, license or lease shall provide the City with notice at least twenty-four (24) hours prior to the



time when inspection of backfill is desired. All backfilling in streets will be according to City specifications. Temporary street surfacing will be placed in such excavations as soon as the same has been backfilled. Pavements, sidewalks, curbs and gutters or other portions of streets and public places opened, disturbed or damaged shall be promptly restored and replaced with like materials at the expense of the holder of a franchise, license or lease and left in as good condition as before the opening, disturbance or damage occurred. In the event like replacement materials are not available, the holder of the franchise, license or lease shall notify the Clerk who must approve the use of any alternate materials. In the event that the holder of a franchise, license or lease fails to comply with the provision of this section, after having been given reasonable notice, the City may do such works as may be needed to properly repair such pavements, sidewalks, curbs and gutters or other portions of streets and public places and the cost thereof shall be repaid to the City by the holder of the franchise, license or lease. In cases where a cut or disturbance is made in a section of street paving or sidewalks, but causes greater disturbance than to just the area cut, rather than replace only the area cut, the holder of a franchise, license or lease shall replace that area as may be ordered by the Clerk which in no event shall exceed the panel or panels disturbed.

**115.08 CITY CONSTRUCTION AND PAVING.** Whenever the City shall pave or repave any street or shall change the grade line of any street or public place or shall construct or reconstruct any conduit, water main service or water connection, sewer or other City-owned public works or City-owned utility, it shall be the duty of the holder of any franchise, license or lease, when so ordered by the City, to relocate its service lines and other property in the streets or other public places at its own expense so as to conform to the established grade or line of such street or public place and so as not to interfere with the public improvements so constructed or reconstructed. In the case of other public improvements, including but not limited to urban renewal projects, the City may require the holder of a franchise, license or lease to relocate its poles, service lines and appurtenances in the streets at the owner's expense. The City may at its discretion assign personnel for inspection of excavation and related work being performed by the holder of a franchise, license or lease. Should the holder of the franchise, license or lease fail or refuse to do and perform the things provided in this section, the City may, after reasonable notice, perform the work and charge the expense thereof to the holder of the franchise, license or lease and the holder of the franchise, license or lease shall promptly pay said charges.

**115.09 DESIGN NOTICE TO CITY.** The holder of a franchise, license or lease shall promptly, upon request, furnish the Council a detailed map or maps of its distribution system both within the City limits and the area within two miles surrounding the City unless that area is within another City. The holder of a franchise, license or lease shall thereafter update the map or maps at least annually or upon request, showing all subsequent additions or deletions to the distribution system. Prior to any excavation by the City or its agents, a representative must contact the holder of any franchise, license or lease regarding current information on the location of underground lines or facilities in the area concerned. The obligation to contact the holder of a franchise, license or lease under this section shall be satisfied if contact is made with the corporation organized pursuant to Code of Iowa Chapter 480 or an entity with a similar function utilized by both the City and the Company, currently the Iowa One Call System.

**115.10 ABOVE-GROUND CABLES, WIRES, CONDUITS AND POLES.** All cables, wires, and conduits shall be placed underground except where above-ground connection to buildings or other locations above ground is reasonably necessary. Such above-ground connection shall be by means of poles located, as far as reasonably practical, within alleys.

No such poles shall be installed or erected until the Council has approved the proposed location, construction and pole heights. The holder of the franchise, license or lease shall have 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. All tree trimming is to be done under the direction of the City and at the expense of the holder of the franchise, license or lease.

**115.11 ASSIGNMENT.** No sale or assignment of any franchise, license or lease of the use of the public right-of-way or other public property shall be effective until it is approved by the Council and until the holder thereof has filed in the office of the Clerk written notice of the proposed sale, transfer, disposition or assignment, such notice to clearly summarize the proposed procedure and the terms and conditions thereof. Such approval by the City shall not be unreasonably withheld. The proposed vendee, assignee or lessee shall similarly file an instrument, duly executed, reciting such proposal, accepting the terms of the franchise, license or lease and agreeing to perform all of the conditions thereof.

**115.12 NO PROPERTY RIGHT.** Nothing in this chapter shall grant to the franchisee, licensee or lessee any right of property in the City owned property, nor shall the City be compelled to maintain any of its property any longer than or in any fashion other than in the City's judgment, its own business or needs require.

**115.13 FORFEITURE.** The violation of any material portion of a franchise, license or lease by the holder thereof or its successors or assigns or its failure promptly to perform any of the provisions of this chapter shall be cause for forfeiture of said franchise, license or lease and the termination of all rights thereunder. Such forfeiture shall be accomplished by ordinance of the City after written notice to the holder thereof and a continuation of the violation, failure or default specified on the notice for at least thirty (30) days from the date the notice was served.

**115.14 APPLICATION.** This chapter shall apply to all franchises, licenses or leases and easements granted by the City, including all existing franchises, licenses or leases and easements.

**115.15 HOME RULE.** This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforceable against the holder of any franchise, license or lease.

**115.16 NEW TECHNOLOGIES.** Should, within the term of any franchise, license or lease, developments within the field for which the grant was made offer to the holder thereof the opportunity to effectively, efficiently and economically serve its customers through use of a substance or material other than those for which the grant was originally made, then the holder of the franchise, license or lease may petition the Council, which, with such requirements or limitation as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the franchise, license or lease.

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## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

*(Code of Iowa, Sec. 123.22, 123.122, and 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39, and 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

*(Ord. 1142 – Oct. 22 Supp.)*

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

*(Ord. 1150 – Oct. 23 Supp.)*

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

*(Code of Iowa, Sec. 123.49[2b])*

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales

by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

*(Code of Iowa, Sec. 142D.2[1])*

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

*(Code of Iowa, Sec. 142D.2[17])*

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue 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 Iowa Department of Revenue.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[2k])*

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class "B" retail alcohol license or an establishment employee when employed in compliance with State law.

***(Section 120.05 – Ord. 1150 – Oct. 23 Supp.)***

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

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

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

*(Section 120.06 – Ord. 1142 – Oct. 22 Supp.)*

## 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, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer. *(Ord. 1113 – Jan. 18 Supp.)*

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. 1092 – Aug. 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. 1092 – Aug. 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 and 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 and 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of



each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. *(Ord. 1150 – Oct. 23 Supp.)*

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 and 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])*

*(Ord. 1126 – Oct. 20 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.

*(Code of Iowa, Sec. 453A.36A)*

*(Ord. 1092 – Aug. 15 Supp.)*

**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

### HOUSE MOVERS

122.01 House Mover Defined  
122.02 Permit Required  
122.03 Application  
122.04 Bond Required  
122.05 Insurance Required  
122.06 Permit Fee

122.07 Permit Issued  
122.08 Public Safety  
122.09 Time Limit  
122.10 Removal by City  
122.11 Protect Pavement  
122.12 Overhead Wires

**122.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

**122.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

**122.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the peace officer and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**122.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**122.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

**122.06 PERMIT FEE.** A permit fee shall be payable at the time of filing the application with the Clerk. The amount of the permit fee will be set by resolution of the Council. A separate permit shall be required for each house, building or similar structure to be moved.

**122.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit. The permit shall be valid for six (6) months after the date of issuance.

**122.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**122.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

**122.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 122.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**122.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**122.12 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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## CHAPTER 123

### SPECIAL EVENTS

123.01 Purpose and Policy

123.02 Intent

123.03 Definitions

123.04 Permit Required

123.05 Exemptions

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123.16 Revocation or Suspension of Permit

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123.19 Penalty for Violation

123.20 Appeal Procedure

**123.01 PURPOSE AND POLICY.** Special events are of infrequent occurrence and temporary in nature and may be associated with promotions, holidays, festivals, etc. Special events shall be allowed by a special event permit granted by the Public Works Director.

**123.02 INTENT.** It is the specific intent to place the obligation of complying with the requirements of this chapter upon the applicant or sponsor, and nothing contained in this chapter is intended to be construed to create or form the basis for liability on the part of the City, or its officers, employees or agents for any injury or damage resulting from the failure of the applicant or sponsor to comply with the provisions stated herein.

**123.03 DEFINITIONS.** For the purpose of this chapter certain terms and words are hereby defined.

1. “Applicant” means any person or organization who seeks a special event permit to conduct or sponsor an event governed by this chapter.
2. “Athletic event” means an occasion in which a group of persons collect to engage in or watch a sport or form of exercise on private or public property and/or on a City street, sidewalk, alley, or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls. Athletic events include (but are not limited to) bicycle and foot races, walkathons, jog-a-thons and fun runs.
3. “Block party” means a festive gathering on a private property or a street which may or may not require the closure of a street, or a portion thereof, to vehicular traffic, and/or use of the street for the festivity including barbecues, picnics, music or games.
4. “Permit application fee” means the fee to be paid by the special event permit applicant at the time the application is filed with the City Clerk. Such fee shall be set by the City Council.
5. “Permittee” means any person or organization that has been issued a special events permit by the Public Works Director. The permittee shall have authority, subject to approval by the City, to determine participation in commercial activities during a special event.
6. “Refundable deposit” means the amount of money required of a permittee by the Public Works Department in order to assure adequate cleanup of the special events

site. The deposit shall be returned to the permittee upon the completion of the event and approval of the Public Works Department.

7. “Special events permit” means the permit issued by the Public Works Director after the applicant has met all applicable reviews and requirements set forth in this chapter.

**123.04 PERMIT REQUIRED.** Any person, group or organization desiring to conduct or sponsor a special event in or on any public street, park or other public property or on private property, and/or which will necessitate the use of the public right-of-way, shall first obtain a special events permit.

**123.05 EXEMPTIONS.** The provisions of this chapter do not apply to any of the following:

1. Funeral processions;
2. Groups required by law to be so assembled;
3. Pedestrian processions along a route that is restricted to sidewalks and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls; and
4. Activities and events deemed by the Public Works Director and Mayor or Council Member not to require a special events permit.

**123.06 ADMINISTRATION.** The Public Works Director, after consultation with appropriate departments and agencies, shall have discretionary authority regarding special event permits. The Public Works Director may approve, modify, or condition an application for a special events permit.

**123.07 PERMIT FEE.** The permit fee shall be set by resolution of the City Council.

**123.08 EXEMPTIONS FROM PERMIT FEE.** No fee shall apply to a block party and fees may be waived for special events sponsored by nonprofit agencies and/or groups which further the goals and objectives of the City.

**123.09 PERMIT APPLICATION.**

1. Any person wishing to sponsor a special event shall apply for a special event permit by filing an application with the City Clerk at least thirty (30) days prior to the date on which the event is to begin to occur.
2. The City Clerk shall issue the special events permit once the application has been approved after review of appropriate agencies to include police, fire, public works and others as determined by the City Clerk, and the applicant has agreed in writing to comply with the terms and conditions of the permit.
3. The City Clerk shall approve, conditionally approve, or deny an application based on the recommendations of City departments involved in the review process.

*(Ord. 1107 – Jan. 18 Supp.)*

**123.10 PERMIT REQUIREMENTS.**

1. Temporary signage and temporary structures will be allowed subject to provisions of this Code pursuant to the interpretive authority and discretion of the Zoning Administrator.
2. Requests for temporary parking facilities for special events and street closures for special events shall be subject to provisions of this Code pursuant to the interpretive authority and discretion of the Public Works Director.
3. Requests for fire and emergency medical services shall be subject to requirements and interpretive authority and discretion of the City's service provider.
4. Requests for police services shall be subject to provisions of this Code pursuant to the interpretive authority and discretion of the Jasper County Sheriff.
5. Expenses for fire, police, medical services, parks and public works crews needed for coverage and cleanup at the special event shall be prepaid and the responsibility of the permittee, even if the permit fee has been waived.
6. The permit should include whether wine or beer will be served by a caterer or vendor with a valid liquor license and liquor liability insurance (i.e. dram shop).

*(Subsection 6 – Ord. 1108 – Jan. 18 Supp.)*

**123.11 PERMIT CONDITIONS.** The Public Works Director or designated appointee may condition the issuance of a special events permit by imposing reasonable requirements concerning time, place, and manner of the event; and such requirements as are necessary to protect the safety and rights of persons and property and the control of traffic.

**123.12 DENIAL OF APPLICATION.** A special event permit may be denied based upon a determination that:

1. The event would seriously endanger public safety;
2. The event would seriously inconvenience the general public;
3. The event would unreasonably infringe upon the rights of abutting properties;
4. The event would conflict with another proximate event or interfere with construction or maintenance work in the immediate vicinity;
5. There are not sufficient safety personnel or other necessary staff to accommodate the event;
6. The applicant failed to complete the application form after being notified of the additional information or documents required;
7. Information contained in the application or supplemental information requested from the applicant is found to be false in any material detail;
8. The applicant cannot meet, or is unwilling to meet, all of the requirements of this chapter or any special conditions imposed by any of the reviewing agencies;
9. Other issues in the public interest were identified by the Public Works Director;
10. The applicant does not have, or failed to provide proof that its caterer or vendor has a valid liquor license and liquor liability insurance (i.e. dram shop).

*(Subsection 10 – Ord. 1109 – Jan. 18 Supp.)*

**123.13 INDEMNIFICATION.**

1. Prior to issuance of the special event permit, the applicant must agree to reimburse the City for any costs incurred by the City in repairing damage to City property occurring in connection with the permitted event.
2. Permittee agrees to defend, indemnify and save harmless the City, its appointed and elected officers and employees from and against all loss or expense, including but not limited to judgments, settlements, attorney fees and costs by reason of any and all claims and demands upon the City, its elected officials or employees for damages because of personal or bodily injury, including death to property or loss there from, arising out of any activity under or in connection with the special event.
3. The Public Works Director has the authority to require a refundable deposit as suggested by the Public Works Department for reimbursement of the costs for cleanup services.

**123.14 SEASONAL PERMITS.** A special event promoter who coordinates and sponsors an event which occurs on a regular basis throughout a specific time period, at least one day a week for a minimum for four (4) consecutive weeks, not to exceed a maximum of twenty-four (24) weeks in any 12-month period, shall pay a fee set by resolution of the City Council for a seasonal permit.

**123.15 INSURANCE REQUIRED.** As required by the Public Works Director, the permittee shall provide the City with a certificate of liability insurance coverage naming the City as an “also insured” in a minimum amount of one million dollars (\$1,000,000.00). Upon receipt of the certificate of insurance the City Clerk shall issue the permit to the special event promoter.

**123.16 REVOCATION OR SUSPENSION OF PERMIT.** A permit issued under the provisions of this chapter shall be temporary, shall vest no permanent rights in the applicant and may be immediately revoked or suspended by the Public Works Director, without notice, for any of the following causes:

1. Fraud, misrepresentation, or an incorrect statement contained in the application for permit, or made in the course of promoting the special event.
2. Failure to comply with any provisions of this chapter or any of the terms or conditions of the special events permit; or the activity conducted is in violation of any of the terms or conditions of the special events permit.
3. Promoting the special event in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
4. The applicant requests the cancellation of the permit or cancels the event; fails to prepay expenses; or the check submitted by the applicant in payment of the expenses or permit fee has been dishonored.
5. The activity endangers or threatens persons or property, or otherwise jeopardizes the health, safety or welfare of persons or property.
6. An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety.



**123.17 PERMIT EXPIRATION.** A special event permit as issued shall set forth the time period for which the permit is issued. The time period for which the permit is effective shall include a reasonable period for cleanup. The permit shall expire at the end of the time period specified in the permit.

**123.18 CONTRACTUAL ARRANGEMENTS.** The permittee shall be solely responsible for any contractual arrangements between itself and any special event merchants and/or private property owners operating as part of the special event.

**123.19 PENALTY FOR VIOLATION.** Any person that violates any of the provisions of this chapter shall be guilty of a misdemeanor. Each day or portion of a day in which a violation is committed constitutes a separate offense.

**123.20 APPEAL PROCEDURE.** The applicant shall have the right to appeal the denial of a permit to the City Council. A notice of appeal shall be filed with the City Clerk within two days after receipt of notice of denial. The City Council shall act upon the appeal at its next meeting following receipt of the notice of appeal.

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## CHAPTER 124

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

124.01 Purpose

124.02 Definitions

124.03 License Required

124.04 License Exemptions

124.05 Religious and Charitable Organizations

124.06 Application for License

124.07 License Fees

124.08 Bond Required

124.09 License Issued

124.10 Display of License

124.11 License Not Transferable

**124.01 PURPOSE.** The purpose of this chapter is to protect the residents of the City against fraud by registering and licensing peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise, or offering services, who sells or offers for sale for immediate delivery such goods, services or merchandise from house-to-house, business-to-business, office-to-office or upon any public property.
2. “Solicitor” means any person who solicits or attempts to solicit from house-to-house, business-to-business, office-to-office, by telephone from a location within the City limits, or upon public property an 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 or part thereof within the City limits, or who operates out of a vehicle which is parked anywhere within the City limits, for any period of less than sixty (60) days. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer shall not exempt any person from being considered a transient merchant.

**124.03 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 shall be in violation of this chapter.

**124.04 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, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
3. Farmers and Gardeners. Local farmers and gardeners who offer for sale products of their own raising.

4. Students. Students representing the Lynnville-Sully Community School District and the Sully Christian School conducting projects sponsored by organizations recognized by the schools.
5. Milk Delivery. Milk delivery persons who only incidentally solicit additional business or make special sales.
6. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
7. Resale or Institutional Use. Persons customarily calling on the businesses or institutions for the purpose of selling products for resale or institutional use.
8. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year. *(Ord. 1134 – Sep. 21 Supp)*  
*(Code of Iowa, Sec. 364.3[13])*

**124.05 RELIGIOUS AND CHARITABLE ORGANIZATIONS.** Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation this chapter. All such organizations shall be required to submit in writing to the Clerk the name and purpose of the cause for which activities are being 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 for his or her efforts and the amount thereof. If the Clerk shall find that the organization is a bona fide charity or religious organization the Clerk shall issue a license containing the above information to the applicant.

**124.06 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter.

**124.07 LICENSE FEES.** Licenses fees shall be set by resolution of the Council.

**124.08 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.

**124.09 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with this chapter, a license shall be issued immediately.

**124.10 DISPLAY OF LICENSE.** Each solicitor or peddler, at all times while doing business in the City, shall keep in his or her possession the license issued under this chapter, and shall, upon the request of prospective customers, exhibit the license as evidence that such person has complied with all requirements of this chapter. Each transient merchant shall display publicly his or her license in such person's place of business.

**124.11 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.

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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 Driveway Culverts
135.06 Use for Business Purposes	135.13 Depositing Snow, Ice and Other Refuse or Debris
135.07 Washing Vehicles	135.14 Front Yard Drainage Pipe

**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.

*(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 obtaining a street use permit.

**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. 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.
5. 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.
6. 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.
7. Responsibility for Costs. All costs and expenses incident to the excavation shall be determined by the Council.
8. 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.
9. Permit Issued. Upon approval of the application, a permit shall be issued. A separate permit shall be required for each excavation.

10. Permit Fee. The amount of the permit fee will be set by resolution of the Council.

**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 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. Before installing a culvert, a permit must first be obtained from the Public Works Director and the construction materials must be approved by the Public Works Director. The Public Works Director shall inspect the driveway culvert after completion. 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.

**135.13 DEPOSITING SNOW, ICE AND OTHER REFUSE OR DEBRIS.**

1. It is unlawful for any person to throw, push, discard, dump or place or cause to be thrown, pushed, discarded, dumped or placed, any snow, ice, grass clippings, leaves, yard waste, dirt or other refuse or debris from private property, sidewalks, or driveways onto the traveled way or right-of-way of any 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 sidewalks, large commercial drives or parking lots in the Business District it is absolutely necessary to move the snow onto the street or alley or right-of-way temporarily; such accumulation shall be removed within twenty-four (24) hours by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

2. It is unlawful for any person to throw, push, discard, dump or place or cause to be thrown, pushed, discarded, dumped or placed any snow, ice, storm water, groundwater, grass clippings, leaves, yard waste, dirt or other refuse or debris from private property, sidewalks or driveways onto the property of another or the right-of-way located between the sidewalk and the street adjoining another person's property.

*(Ord. 1066 – Sep. 08 Supp.)*

**135.14 FRONT YARD DRAINAGE PIPE.** The purpose of this section is to enhance the beauty of our City, to ease the regular grooming of the parking or terrace area, to prevent puddling at the roadside parking, to enable surface water to flow away easily and quickly, to place liability and responsibility for installation, maintenance, repair, replacement, or

reconstruction of road ditch drainage pipes upon the property owner and to minimize the liability of the City.

1. Definitions. For use in this section the following terms are defined:
  - A. "Road ditch" means the long, narrow, depressed area on either side or parallel to the roadway designed to aid in the dispersing of surface water.
  - B. "Road ditch drainage pipe" means any pipe installed in a road ditch for the purpose of transporting surface water.
  - C. "Roadway parking or terrace" means the area between the traveled portions of the roadway or curb line and abutting property.
2. Permit Required. No property owner shall close the road ditch of a front yard in a residential area without first obtaining a permit therefor. The cost of the permit shall be \$25.00. A written application for such permit shall be filed with the City Council and shall contain the following:
  - A. An exact description of the property, by lot and street number, along with a drawing and description of where and how the road ditch drainage pipe will be installed.
  - B. A statement of the purpose for the installation, and for whom and by whom the installation is to be made.
  - C. The name of the person responsible for the refilling and restoration of the street or alley surface if damaged or disturbed.
  - D. Date of commencement of the work and estimated completion date.
3. City Council Determination. The City Council shall determine on a case-by-case basis if road ditch drainage pipe can be installed in the location desired and whether or not a certified drainage engineer will need to be hired to recommend the size and depth so the surface water will not run on the street.
4. Specifications. The fall of the road ditch drainage pipe will be not less than .4% per hundred feet and the pipe shall be of a quality and strength to minimize crushing. This shall be done before the City will give permission to close the road ditch.
5. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work.
6. Responsibility for Costs. All costs of the engineer, materials, labor and all other associated costs for installation of the road ditch drainage pipe shall be the responsibility of the property owner.
7. Responsibility for Maintenance and Reconstruction. In the event that the road ditch drainage pipe will at any time need to be cleaned, repaired, or reconstructed it will be done at the property owner's expense. In the event the property owner fails to do so, the City shall have the right to clean and/or reconstruct and make repairs or corrections and bill the property owner for all costs. If the property owner fails to reimburse the City for said costs, the costs shall be certified to the County Treasurer and specially assessed against the property as provided by law.
8. Permit Issued. Upon approval of the application, a permit shall be issued. A separate permit shall be required for each installation.



## 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 Encroaching Steps
136.04 Responsibility for Maintenance	136.13 Openings and Enclosures
136.05 City May Order Repairs	136.14 Fires and Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.15 Defacing
136.07 Permit Required	136.16 Debris on Sidewalks
136.08 Sidewalk Standards	136.17 Merchandise Display
136.09 Barricades and Warning Lights	136.18 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, not to exceed 24 hours following the cessation of snow fall or the forming of ice, 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. The amount of the permit fee will be set by resolution of the Council. The permit shall be valid for six (6) months after the date of issuance.

**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 (3) 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 six (6) feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
  - C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) 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 ( $\frac{1}{2}$ ) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ( $\frac{1}{4}$ ) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner’s contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 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.

**136.13 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.

**136.14 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.

**136.15 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)*

**136.16 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 other substance likely to injure any person, animal or vehicle.

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

**136.17 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.

**136.18 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 or alley or portion thereof, 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 or alley 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 or alley, or portion thereof, shall be vacated unless the Council finds that:

1. Public Use. The street or alley 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.

*(Code of Iowa, Sec. 364.15)*

**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, or portion thereof, 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])*

**EDITOR'S NOTE**

All ordinances vacating certain streets and/or alleys are not codified herein but are specifically saved from repeal, and remain in full force and effect.

**CHAPTER 138**  
**STREET GRADES**

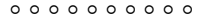
**138.01 Established Grades**

**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.

<b>EDITOR'S NOTE</b>
All ordinances establishing street and/or sidewalk grades are not codified herein, but are specifically saved from repeal, and remain in full force and effect.





## 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.

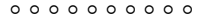
**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**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 Sully, 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.



## CHAPTER 140

# MAILBOXES

140.01 Requirements

140.02 U.S. Post Office Property

140.03 Rural Locations

140.04 Clusters

140.05 Setback Requirements

140.06 Maintenance Of Approaches

140.07 Owner Responsible

**140.01 REQUIREMENTS.** No person shall place a mailbox upon the street right-of-way or upon any non-traveled portion of a street except as provided herein.

**140.02 U.S. POST OFFICE PROPERTY.** Boxes which are the property of the United States Postal Service used for the carrying out of its purpose may be allowed with Council approval.

**140.03 RURAL LOCATIONS.** Mailboxes may be erected to serve postal patrons who live on an approved rural route provided:

1. They are located more than one-fourth mile from the Post Office.
2. Their property is abutted to the rural route.

**140.04 CLUSTERS.** Mailboxes, when allowed, shall be clustered in a single location in a block unless extraordinary conditions make such clustering impractical.

**140.05 SETBACK REQUIREMENTS.** Mailboxes shall not be set closer than twenty-five (25) feet to an intersection; said intersection shall be determined by measuring 25 feet from the middle of the intersecting street down the street the mailboxes are to be placed upon. Mailboxes shall not be placed closer than ten (10) feet from any alley. Mailboxes meeting the above specifications may be placed in the street right-of-way provided that the support thereof shall be at least two (2) feet from the street as established by the edge of the blacktop, asphalt, hard surface or traveled portion of the street and no portion of the mailbox or support shall extend beyond the inner edge of the curb. Said mailboxes shall not obstruct a paved sidewalk for pedestrians and where the roadway has a shoulder to be maintained, said mailboxes and support shall be placed so as not to interfere with the road maintenance or snow removal.

**140.06 MAINTENANCE OF APPROACHES.** All approaches to a mailbox shall be maintained by the individual owner of the mailbox at said approach and the City shall not be responsible for surfacing, grading or maintaining said approaches.

**140.07 OWNER RESPONSIBLE.** The owner and/or postal patron shall be responsible for all costs of the erecting, maintaining and replacing any mailbox located pursuant to this chapter. Such responsibility is that of the owner and/or postal patron regardless of the cause for any needed maintenance or replacement.

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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 Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined 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 owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SULLY, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

*(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])*

**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 of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.03 Foundation Requirements

### 146.02 Conversion to Real Property

**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)*

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## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Map

**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 four (4) inches in height with a minimum stroke width of 0.5 inch 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 MAP.** The Clerk shall be responsible for preparing and maintaining a building numbering map.

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## CHAPTER 151

### TREES

151.01 Purpose

151.02 Definition

151.03 Trees, Shrubs, Hedges and Fence Posts

151.04 Prohibited Trees

151.05 Existing Plantings

151.06 Duty to Trim Trees

151.07 Interference with Utilities

151.08 Trimming Trees to be Supervised

151.09 Disease Control

151.10 Removal of Trees, Shrubs and Hedges

**151.01 PURPOSE.** The purpose of this chapter is to promote public safety and to beautify and preserve the appearance of the City. All trees, hedges, shrubs, landscaping and other decorative items planted or placed in violation of this chapter are hereby declared to be a nuisance. Violations of this chapter are hereby declared to be a nuisance. Violations of this chapter may be abated either pursuant to this chapter or as a nuisance.

**151.02 DEFINITION.** For the purpose of this chapter, the term “street” includes the entire width between property lines along streets, avenues or highways within the City.

**151.03 TREES, SHRUBS, HEDGES AND FENCE POSTS.** All trees, shrubs, hedges, landscaping, and decorative items placed or planted along any street or alley shall be placed or planted at least five (5) feet from the property line. In no event shall trees, shrubs, hedges, landscaping, or any other decorative items be placed or planted between the property line and the street curb or the traveled portion of the street or roadway or in any public right-of-way. All trees, shrubs, hedges, landscaping, and decorative items are prohibited within any easement.  
*(Ord. 1151 – Oct. 24 Supp.)*

**151.04 PROHIBITED TREES.** No person shall plant any fruit bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

**151.05 EXISTING PLANTINGS.** All trees, shrubs, hedges, landscaping or decorative items in existence prior to January 1, 2007, which do not comply with this chapter may be exempt from this chapter, provided that it is determined that they do not cause a safety hazard or interfere with public utility lines as determined by the Public Works Director.

**151.06 DUTY TO TRIM TREES.** It shall be the responsibility of the property owner to keep the trees on, or overhanging the street, trimmed so that such branches do not obstruct the light from any street lamp or obstruct the view of any street intersection and that there is a clear space of at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. The City shall have the right to prune any trees or shrubs on private property when the same interfere with the proper spread of light along the street from a street light or interfere with visibility of any traffic control device or sign or is determined to be a safety hazard. 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 fourteen (14) days. If the property owner refuses to take the required action in 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.

**151.07 INTERFERENCE WITH UTILITIES.** Permission is hereby granted to any properly enfranchised public utility to trim, cut or remove trees, shrubs, hedges or other plantings which are interfering with public utility lines or other equipment. Minimum spacing of trees from utilities shall be as follows:

1. Minimum distance of five (5) feet from water service curb-stop boxes.
2. Minimum distance of ten (10) feet from hydrants, poles, transformers, telephone junction boxes, manholes, driveway approaches and buried utilities.
3. Minimum distance of twenty-five (25) feet from street lights.

**151.08 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Sections 151.06 and 151.07; no person may trim or cut any tree in a street or public place unless the work is done under the supervision or approval of the Public Works Department.

**151.09 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.

**151.10 REMOVAL OF TREES, SHRUBS AND HEDGES.** Any plantings or decorative items in the City which are considered a safety hazard, which interfere with public utility lines, which are a prohibited tree or which were planted or placed in a street or public place after January 1, 2007, shall be removed within six (6) months upon written notice to remove by the Public Works Director to the property owner. All stumps of trees shall be removed below the surface of the ground so that the stump does not project above the surface of the ground. If the property owner refuses to remove the specified item, the Public Works Director may order its removal and cause the City Clerk to assess the cost thereof against the property owner for collection in the same manner as a property tax. The property owner may appeal the decision of the Public Works Director to the City Council.

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## CHAPTER 155

# SIGNS, AWNINGS AND CANOPIES

155.01 Purpose

155.02 Erection of Signs, Awnings and Canopies

155.03 Clearance of Signs

155.04 Clearance of Canopies

155.05 Movable Awnings, Clearance and Erection

155.06 Signs Within Residential Areas

155.07 Prohibited Signs

155.08 Permit

**155.01 PURPOSE.** The purpose of this chapter is to provide that all signs, awnings and canopies are constructed and kept in a safe condition and that signs are not located as to cause a safety hazard.

**155.02 ERECTION OF SIGNS, AWNINGS AND CANOPIES.** No sign shall be erected, placed or maintained within the City street right-of-way. Any person desiring a variance from this regulation may appeal to the Zoning Board of Adjustment following the same procedures for appeals as set forth in Chapter 165 of this Code of Ordinances. All signs, awnings and canopies extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from other cause. The roof or covering of the awning must be 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. No sign or canopy shall be erected or maintained extending over any public sidewalk, street, alley or other public place in such a location as to obstruct the view of any traffic light or other traffic light or other traffic sign or signal.

**155.03 CLEARANCE OF SIGNS.** Projecting signs shall have the clear space of not less than ten (10) feet below all parts of the sign provided that the signs extend two (2) feet or less from the building and contain three (3) square feet or less of exposed surface area on one side. Projecting signs extending into the limits of an alley shall have a clear space of not less than sixteen (16) feet above the alley grade.

**155.04 CLEARANCE OF CANOPIES.** All projecting canopies or marquees shall have the clear space of not less than seven (7) feet below all parts of the canopy or marquee.

**155.05 MOVABLE AWNINGS, CLEARANCE AND ERECTION.** Movable awnings supported throughout on metal frames may extend out over the sidewalk portion of the public street a distance of not to exceed two-thirds (2/3) of the width of the sidewalk space; provided that every awning frame shall be not less than seven feet six inches (7'6") from the sidewalk immediately below and that any fringe attached to the awning shall not be less than seven (7) feet from the sidewalk immediately below.

**155.06 SIGNS WITHIN RESIDENTIAL AREAS.** No advertising signs of any kind shall be allowed within any area zoned or restricted for residential purposes; provided, however, professional cards or signs setting forth name, occupation and other pertinent information of a permissive occupation for such area containing an area of not to exceed four (4) square feet may be erected upon private property.

**155.07 PROHIBITED SIGNS.** The following signs are expressly prohibited in all zoning districts, except as otherwise provided in this Code:

1. Any sign that makes use of beacon lights, flashing, blinking, or traveling light, with reflectors or reflecting materials used to increase the intensity of the sign illumination.
2. Any sign, or portion thereof, that moves or assumes any motion constituting a non-stationary condition. This requirement is not intended to prohibit any form of signage attached to a motor vehicle.
3. Swinging signs.
4. Any sign having any element that turns on or off or otherwise changes its appearance, faster than once in two (2) seconds.

**155.08 PERMIT.** Permits shall be obtained for the installation of all signs in conjunction with the requirements of Chapter 165, with the following exceptions:

1. Real estate signs that identify a property that is for sale. Real estate signs shall not be placed in the public right-of-way. They shall be placed on the property that is being identified for sale or lease.
2. Construction and development signs which identify projects and contractors.
3. Political signs announcing candidates seeking public political office in a forthcoming election or signs announcing political issues for or against, to be considered in a forthcoming election and be placed to meet all election laws. Political signs shall not be placed in the public right-of-way.
4. Signs affixed to vehicles and trailers only where the sign is incidental and accessory to the primary use of the vehicle or trailer and the primary purpose of such vehicle or trailer is not the display of signs and the vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which signs relate.
5. Any other signs as may be identified in this chapter which may not require a permit.

The permit fee for signs is \$15.

*(Ord. 1102 – Sep. 16 Supp)*

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## CHAPTER 165

# ZONING REGULATIONS

165.01 Purpose	165.12 Construction Permits and Certificates of Zoning Compliance
165.02 Definitions	165.13 Schedule of Fees, Charges and Expenses
165.03 Establishment of Districts	165.14 Certificates of Occupancy
165.04 Conformance Required	165.15 Board of Adjustment Created
165.05 Continuing Existing Uses	165.16 Meetings of the Board of Adjustment
165.06 Nonconforming Uses	165.17 Appeals
165.07 Additional General Regulations	165.18 Jurisdiction and Powers of the Board
165.08 Residential District Regulations	165.19 Amendments
165.09 Commercial District Regulations	165.20 Penalty
165.10 Industrial District Regulations	165.21 Conditional Uses
165.11 Administration and Enforcement	

**165.01 PURPOSE.** The purpose of this chapter is to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to regulate the use of land and to promote the health, morals, safety and general welfare of the City.

**165.02 DEFINITIONS.** For use in this chapter, the following words and terms are defined.

1. “Accessory use, building or structure” means a use, building or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use; and does not alter or change the character of the premises; and which is not used for human occupancy. Accessory uses or structures shall be located on the same lot as the principal use or structure, except as otherwise specified.
2. “Alley” means a public way, other than a street, twenty (20) feet or less in width providing a secondary means of access to abutting property.
3. “Beginning of construction” means the incorporation of labor and material for any building or structure.
4. “Billboard” includes all structures, regardless of the material used in construction of same, that are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
5. “Board” means the Board of Adjustment of the City.
6. “Boarding house” means a building other than a hotel where, for compensation, meals and lodging are provided for six (6) or more persons, but does not include rest homes or retirement homes.
7. “Building” means any structure designed or intended for support, enclosure, shelter or protection of persons, animals, or property, but not including signs and billboards.

8. "Building, height of" means the vertical distance from the natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
9. "Building line" means a line parallel to the street right-of-way line at any story level of a building over which no portion of the building may extend and representing the distance which all or any part of the building is set back from said right-of-way.
10. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. Such carport shall have a Portland cement concrete floor. For the purposes of this chapter, a carport shall be considered as a garage.
11. "Commission" means the City Planning and Zoning Commission.
12. "Demolition" means to raze, destroy, dismantle, or any act or process that may cause partial or total destruction of a structure.
13. "Depth or distance from lot line" means any distance or depth from lot line requirements will be measured using the furthestmost extension of the building, such as the outside of the eave and not at the foundation.
14. "Dwelling" means any building or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer or trailer coach.
15. "Façade" means the front or principal face(s) of a building, excluding an attached garage of a residential structure, sometimes distinguished from the other faces by elaboration of architectural or ornamental details and often serving as the primary entrance.
16. "Family" means a group of one or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house or rooming house.
17. "Hotel" means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests in contradistinction to a boarding house or rooming house.
18. "Junk yard" means any area where waste, discarded or salvaged materials are brought, sold, exchanged, baled or packed, disassembled or handled, including housewrecking yards, used lumber yards and places or yards for storage of salvaged housewrecking or structural steel materials and equipment.
19. "Lot" means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings including the open spaces required by this chapter. Any portion of a lot or record subject to an easement for road or street purposes shall be excluded in computing lot width, lot area, yard requirements and lot lines, and in such cases the words "street line" and "lot line" shall be synonymous.
20. "Motel" or "auto court" means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached or parking facilities conveniently located to each unit.
21. "Nonconforming use" means the use of a building or land which was established prior to the time of the enactment of this chapter or amendments thereto

which does not conform after such enactment with the use regulations of the district in which it is situated.

22. “Nursing or convalescent homes” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including insane and other mental cases, inebriate or contagious cases.

23. “Rooming house” means an establishment where lodging only is provided for compensation for six (6) or more persons.

24. “Story” means that portion of a building included between the surface of any floor above the average natural grade at the building line and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

25. “Structural alterations” means any change in the supporting members of a building including but not limited to bearing walls, load bearing partitions, columns, beams or girders, or any substantial change in the exterior walls or roof, beyond ordinary repairs and maintenance. The enlargement of the size or height of a building shall be construed to be a structural alteration.

26. “Structure” means anything constructed or erected that is 25 square feet or 25 linear feet or more which requires location on the ground or attachment to something having a location on the ground. This includes, but is not limited to, fences, decks, playhouses, greenhouses, gazebos, and any utility or storage buildings.

27. “Tourist home” means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations, primarily for automobile travelers.

28. “Trailer park” means any lot or portion of a lot upon which two (2) or more trailers or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

29. “Yard” means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a front or rear yard for the purpose of determining the depth thereof, the least distance between the lot line and the main building or any projection shall be used. On corner lots the front and rear yards shall be considered as parallel to the street upon which the lot has its least dimension.

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**165.03 ESTABLISHMENT OF DISTRICTS.** The City is hereby divided into residential districts and commercial and/or industrial districts, as follows:

1. Residential. The residential districts include all of the areas within the corporate limits which are not specifically designated as Commercial or Industrial Districts.
2. Commercial/Industrial. The Commercial and Industrial Districts include the following described area:

*Lots 1, 2 and 3 and Out lot 2, Block 1 of the Original Town of Sully; Lots 1, 2, 7 and 8, Block 1 of Talbot's Addition; Lots 1 and 2, Block 4, Talbot's Addition; Lots 3, 4, 5 and 6, Block 15, Original Town; Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 10, Original Town; Lots 14, 15 and 16, Block 6, Original Town; West one-half of Block 18, Original Town; Lots 7, 8, 9, 10, 11, 12 and South one-half of Lot 15 and South one-half Lot 16, Block 12, Original Town; All of Block 13 and 14, Original Town; Co-op Lot 1, Goves Subdivision; Co-op Lots 2 and 3, Original Town; Co-op Lots 4, 5, 6, 7 and 8 in Haines Addition and Railroad; North one-half Block 3, Original Town; Railroad Lots A and B, Blocks 1, 2, 5, 6, 7 and 8, Haines Addition and the West one-half Block 3, Haines Addition; North 208 feet of the West 132 feet, Lot 7, Goves Subdivision; Lots 8 and 9, Goves Subdivision; and all of Lots 11 and 23 and Railroad, Goves Subdivision; All of Lot 13 except west 15 feet, Goves Subdivision; Northwest 160.84 feet by 132 feet of Lot 21, formerly Co-op Lot 10, Goves Subdivision; the west 326.91 feet of Lot 22, Goves Subdivision; Lot 1 of the SE one-half of SW one-fourth, Section 5, Township 78, Range 17; East 175 feet of west 295 feet of west one-half of SE one-fourth of SW one-fourth, Section 5, Township 78, Range 17; Parcel B of the East half of the Northeast Quarter of Section 7, Township 78 North, Range 17 West; Parcel C of the NE Quarter of the Northeast Quarter of Section 7, Township 78 North, Range 17 West of the Fifth P.M., Jasper County.*

3. Future Annexations. All territory which may hereafter be annexed to the City shall automatically be classified as lying in a residential district until such classification shall have been changed by an amendment to this chapter, as provided by law.

**165.04 CONFORMANCE REQUIRED.** Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this chapter for the district in which the building or land is located.

**165.05 CONTINUING EXISTING USES.** The use of a building existing at the time of the enactment of this chapter may be continued, even though such use may not conform with the regulations of this chapter for the district in which it is located. A change of ownership shall invalidate this provision.

**165.06 NONCONFORMING USES.** No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted or structurally

altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:

1. Substitution. If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of the same or a more restricted class. Whenever a nonconforming use has been changed to more restricted use or to a conforming use, such shall not thereafter be changed to a less restricted use.
2. Expansion and Enlargement. The owner of a business building existing at the time of adoption of this chapter may nevertheless enlarge, alter or expand said building, provided the same upon completion does not occupy more than 95% of the area of the lot or lots occupied by said business or lots adjacent thereto, and of which lot or lots said person is the owner of record at the time of the enactment of this chapter. A change of ownership shall not invalidate this provision.
3. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of three (3) months, or if the property changes ownership, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no building or structure is erected or constructed which does not conform to the provisions of this chapter shall be discontinued within three (3) months from the date of the enactment of this chapter and the use of land upon which no building is erected or constructed which becomes nonconforming by reason of a subsequent change in this chapter shall be discontinued within three months of the change.

#### **165.07 ADDITIONAL GENERAL REGULATIONS.**

1. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be occupied as a dwelling for more than eighteen (18) months after the issuance of building permit, and then only during the construction of the main building.
2. No building or structure shall be constructed or erected unless upon completion it shall have at least one story above the average natural grade at the building line and unless the exterior is completed within eighteen (18) calendar months, and no basement or cellar shall be occupied as a dwelling for more than eighteen (18) months after the issuance of the building permit and then only during the construction of said building.
3. No part of the yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard similarly required for another building.
4. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building or part thereof, the construction of which shall have been started prior to the effective date of this chapter and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.
5. Any building existing at the time of enactment of this chapter which does not comply with all the requirements for the district in which it is located may nevertheless be enlarged or structurally altered if the use thereof complies with the use requirements of the district in which it is located and provided that said enlargement or structural alteration is done in such a manner that when completed all district

regulations shall be complied with except to the extent that the original building did not comply with district regulations.

6. No building shall be moved into an area where the presence of said building may tend to lower the valuations of adjoining properties.

7. A permit is required before any structure or part of a structure can be demolished or relocated. The permit fees for demolition or relocation of a structure will be set by resolution of the Council. A demolition or relocation permit shall be valid for six (6) months after the date of issuance. No demolition or relocation permit is required:

A. For structures less than 100 square feet in size.

B. For relocation of a structure upon the same lot.

C. To demolish a building declared to be dangerous under Chapter 145 of this Code of Ordinances.

8. All addresses of existing property within the corporate limits or property recently annexed shall conform to the existing street naming and numbering system of the City.

9. Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

10. Decks and porches attached to the principal structure shall adhere to all setback requirements of the principal structure. Decks and porches which are less than two feet from the principal structure shall be considered as attached for purposes of this regulation.

11. It shall be the responsibility of the property owner to know the location of all property lines and easements associated with the property and to have the ability and/or records to prove those locations if necessary or required by the Zoning Administrator.

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**165.08 RESIDENTIAL DISTRICT REGULATIONS.**

1. Uses. In residential districts, no building or land shall be used other than for one or more of the following purposes:
  - A. Single, double and multiple family dwelling units;
  - B. Churches and places of worship and parochial schools or private schools;
  - C. Public schools, nursery schools, day care centers, public libraries, non-commercial parks, non-commercial playgrounds and universities and colleges, with such buildings, improvements, personal property and activities as may have been carried on by said institutions in the area occupied by them at the time of the enactment of the original ordinance codified herein.
  - D. Professional offices, medical clinics, nursing homes, and studios and small home occupations which do not occupy more than 50% of floor space of one floor of the dwelling; provided that there shall be no sign or other evidence of such use other than one small announcement or professional sign not to exceed four (4) square feet, which may be erected upon private property.
  - E. Hospitals and sanitariums.
  - F. Gardens incidental to the foregoing five (5) purposes.
  - G. Public utility structures necessary for the service of the area.
  - H. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. The raising, keeping or boarding of livestock, farm animals or chickens within 200 feet of a dwelling is not considered an accessory or customary use.
  - I. House trailers, mobile homes, etc. shall not be permitted in residential districts. [See Section 165.09(1)(G)].
2. Height of Buildings. No dwelling or structure shall be erected to exceed the height of forty (40) feet or to exceed three (3) stories, except as hereinafter provided. The following items shall be excluded from height restrictions:
  - A. Water tanks and utility poles
  - B. Church steeples
  - C. Television antennas
  - D. Flagpoles
  - E. Chimneys or smoke stacks incidental to the buildings of schools, colleges, universities and sanitariums.
3. Density of Population. Lot areas shall be not less than six thousand four hundred (6400) square feet and lot width not less than sixty (60) feet. However, any lot of official record as of the effective date of this chapter which has an area of not less than five thousand (5,000) square feet and lot width not less than forty (40) feet shall be deemed sufficient and the Building Inspector shall issue a building permit for the construction of a dwelling and accessory building if all other requirements of this

chapter are complied with, except that the depth of the rear yard of any such lot need not exceed twenty percent (20%) of the depth of the lot, but in no case less than ten (10) feet, lot width to be measured at the building line and at right angles, to the depth. There shall be no more than one dwelling placed on a lot.

4. Percentage of Lot Covered by Buildings, Dwellings and Other Structures. All dwellings or other structures, including accessory building, shall not cover more than forty percent (40%) of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.

5. Yards. Each lot shall have front yard facing an established street with front, side and rear yards having not less than the following depths and widths:

A. Front yard depth of twenty-five (25) feet.

B. Each side yard width five (5) feet except that on corner lots the side yard adjoining the street shall have a width of not less than twenty-five (25) feet.

C. Rear yard depth of fifteen (15) feet.

6. Accessory Buildings. Accessory buildings may be located only in rear yards and at a distance at least two (2) feet from any lot line and twenty-five (25) feet from any street line. Accessory buildings, including siding and roofing materials, shall not be constructed from galvanized corrugated or sheet metal. Accessory buildings shall be fully enclosed, and the color of siding shall be similar to that on the principal structure. Roof pitch and color shall also be similar to the principal structure.

*(Subsection 6 – Ord. 1152 – Oct. 24 Supp.)*

7. Signs. No outside lighting of any signs shall be permitted other than indirect lighting.

8. Fence and Hedge Regulations. All fences and hedges must comply with the following:

A. Fences shall not be erected within two (2) feet of any lot line or alley or within twenty-five (25) feet of any street right-of-way.

B. Before issuing a permit for a fence proposed to be located on a lot line that is shared by two different property owners, the following conditions must be met:

(1) The owners of the properties that share the lot line on which the proposed fence will be located must sign a written agreement that outlines the material the fence will be constructed from, the location of the fence, the height of the fence and the agreement of both property owners to all of the above conditions.

(2) The agreement must then be filed with the County Recorder by the property owners.

(3) A copy of the agreement and proof of its filing with the County Recorder must be presented to the City Official responsible for the issuing of fence permits before the permit will be issued.

C. No fence or wall in any rear yard shall exceed eight (8) feet in height in a residential district, or ten (10) feet in height in a commercial or industrial district unless otherwise approved by the Board of Adjustment.

D. Every fence hereafter erected shall be done in the following manner: posts, supporting rails and other such supporting elements shall be on and face the property on which the fence is located.

E. Fences may be located in front yards if approved by the Zoning Administrator and Planning and Zoning Commission, provided the design does not cut off the neighbors' view and adds to landscaping.

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**165.09 COMMERCIAL DISTRICT REGULATIONS.**

1. Uses. In commercial districts, no building or land shall be used other than for one or more of the following purposes:
  - A. All the uses permitted in any residential district.
  - B. Stores and shops for the conducting of any lawful retail business.
  - C. Personal service shops.
  - D. Banks, theaters, offices.
  - E. Garages and filling stations, subject to the following provisions:
    - (1) Pumps, lubricating or other devices shall be located at least twelve (12) feet from any street line or highway right-of-way, except where same are within a building.
    - (2) All bulk storage of petroleum fuels shall be underground.
  - F. Wholesale and retail business, including the storage of bulk material for:
    - (1) Building material companies
    - (2) Contractors equipment
    - (3) Farm equipment and implements
    - (4) Clothing
    - (5) Drugs
    - (6) Foods
    - (7) Hardware
  - G. Mobile Home Parks. No lot or parcel of ground shall be used as a mobile home park unless it meets with all appropriate State requirements and the following requirements of the City.
    - (1) Each mobile home shall be provided with proper sanitary facilities.
    - (2) Each mobile home shall be provided with an area of not less than one thousand (1,000) square feet of ground.
    - (3) Each mobile home shall be provided with connections to water, sewer and electricity.
    - (4) Each mobile home park owner shall provide a plat showing the proposed plan of the park, which plan will be referred to the Planning and Zoning Commission for its approval.
  - H. Motels, tourist homes, boarding houses and boarding and rooming houses.
  - I. Greenhouses and nurseries subject to the following restrictions:

- (1) No storage of manure, or odor or dust-producing substances or use shall be permitted within one hundred (100) feet of any adjoining lot lines.
  - (2) No greenhouse heating plant shall be operated within seventy-five (75) feet of any adjoining lot line.
- J. Greenhouses and nurseries, provided no products shall be publicly displayed or offered for sale from the roadside.
- K. Other Uses Permitted.
- (1) Advertising signs and billboards provided the same do not obstruct the view of traffic on streets or alleys, and are in conformity with Chapter 155 of this Code of Ordinances.
  - (2) Amusement places
  - (3) Auction rooms
  - (4) Bakeries
  - (5) Electric repair shops
  - (6) Freight stations
  - (7) Hotels
  - (8) Laundries
  - (9) Blacksmith and locksmith shops
  - (10) Telegraph service stations
  - (11) Painting and decorating shops
  - (12) Photographic galleries
  - (13) Plumbing shops
  - (14) Police and fire department stations
  - (15) Post offices
  - (16) Printing shops
  - (17) Railroad passenger stations
  - (18) Recreation buildings and structures
  - (19) Roofing shops
  - (20) Sales show rooms
  - (21) Shoe repair shops
  - (22) Undertaking establishments and/or funeral parlors
  - (23) Other uses which in the opinion of the Board of Adjustment are of the same general character as those listed above as permitted uses and which will not be detrimental to the district in which they are located.

2. Percentage of Lot Coverage. No building with its accessory buildings to be used for said commercial purposes shall occupy in excess of ninety-five percent (95%) of the area of the lot.
3. Height Regulations. No building shall be erected to a height in excess of fifty (50) feet.
4. Livestock and Farm Animals. The raising of poultry and the raising or keeping or boarding of livestock or farm animals shall not be permitted within two hundred (200) feet of a dwelling.
5. Setbacks. All commercial property shall maintain a 10-foot front yard setback from the lot line, with the exception of commercial property on or adjoining the City square.

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**165.10 INDUSTRIAL DISTRICT REGULATIONS.**

1. Uses. In industrial districts, no building or land shall be used other than for one or more of the following purposes.
  - A. All uses not otherwise prohibited by law.
  - B. Junk yards, automobile and machinery wrecking yards and scrap iron, rag or paper storage yards shall be enclosed by a fence, not less than six (6) feet in height, completely obscuring the activity, unless said activities are conducted wholly within a building.
2. Required Conditions. The best practical means known for the disposal of refuse matter or water-carried waste and the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.
3. Livestock and Farm Animals. The raising of poultry and the raising or keeping or boarding of livestock or farm animals shall not be permitted within two hundred (200) feet of a dwelling.

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**165.11 ADMINISTRATION AND ENFORCEMENT.** There is hereby created the position of Building Inspector/Zoning Administrator of the City. The Building Inspector/Zoning Administrator shall be appointed by the City Council. The Zoning Administrator shall administer and enforce this chapter. The City Council may direct other persons to assist him/her. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter or to ensure compliance with or to prevent violation of its provisions.

**165.12 CONSTRUCTION PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.**

1. Construction Permits Required. No building or other structure shall be erected, constructed, reconstructed or structurally altered until an inspection has been made and a construction permit has been issued therefor, by the Building Inspector/Zoning Administrator. No construction permit shall be issued by the Zoning Administrator except in conformity with the provisions of this chapter, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception or variance as provided by this chapter. A construction permit shall not be required for an alteration, repair or improvement which does not change the dimensional outline of the building being so altered, repaired or improved. No permit is needed for repair or replacement of stoop, steps, decks, porches or fences provided it is of the same dimensions and basic design. All portable buildings which are displayed for sale on commercial property that are not being used for any other purpose are exempted from the construction permit requirement.
2. Application for Construction Permit.
  - A. All applications for construction permits shall include a site plan drawn to an appropriate scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.
  - B. The application shall include such other information as lawfully may be required by the Zoning Administrator, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this chapter.
  - C. A copy of the application shall be returned to the applicant by the Zoning Administrator, after he/she shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. The original application, similarly marked, shall be retained by the Zoning Administrator.
3. Posting of Construction Permits. A construction permit shall be posted by the applicant on the property in question prior to the start of construction. It shall be placed so that it is readable from the public street and shall remain in place during the construction period. If a construction permit is not obtained and properly posted prior

to construction, construction must cease until such permit is granted. The usual permit fee will be doubled and other penalties may be levied.

4. Expiration of Construction Permit.
  - A. If the work described in any construction permit has not begun with 180 days from the date of issuance, said permit shall expire; it shall be canceled by the Zoning Administrator; and written notice thereof shall be given to the persons affected.
  - B. If the work described in any construction permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new construction permit has been obtained.
  - C. The expiration date of a construction permit may be established for a period longer than two years if established at the time that such permit is issued by the City. The Zoning Administrator may, at his/her discretion, extend the expiration period of the building permit.

**165.13 SCHEDULE OF FEES, CHARGES AND EXPENSES.** The City Council shall establish by resolution a schedule of fees, charges, and expenses for construction permits, certificates of zoning compliance, appeals and other matters pertaining to this chapter. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

**165.14 CERTIFICATES OF OCCUPANCY.** Certificates of occupancy shall be applied for coincidentally with the application for a building permit, and shall be issued by the Building Inspector/Zoning Administrator within ten (10) days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Building Inspector/Zoning Administrator. No building erected or portion thereof structurally altered shall be occupied or used except as provided in Section 165.07(1) and (2), and no change of use shall be made in any building or part thereof until a certificate of occupancy has been issued by the Building Inspector/Zoning Administrator. No permit shall be issued to make a change of use unless the change is in conformity with the provisions of this chapter. A certificate of occupancy is required for all nonconforming uses. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the Building Inspector/Zoning Administrator, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any legal act, conduct, business or use in or about the said premises.

**165.15 BOARD OF ADJUSTMENT CREATED.** A Board of Adjustment is hereby established which shall consist of five (5) members. The term of office of the members of the Board of Adjustment and the manner of their appointment shall be as provided by statute.

**165.16 MEETINGS OF THE BOARD OF ADJUSTMENT.** The meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Board meetings shall be held at the City Hall. Such Chairperson, or if absent, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Clerk's office and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

**165.17 APPEALS.** Appeals to the Board may be filed by any person aggrieved or by an officer, department, board or bureau of the City affected by any decision of the Building Inspector/Zoning Administrator. Such appeal shall be filed within ten (10) days from the time of decision, by filing with the Clerk a notice of appeal specifying the grounds thereof. The Building Inspector/Zoning Administrator shall transmit to the Board all papers constituting the record for the decision being appealed. A filed appeal stays all proceedings in regard to the decision being appealed, unless the Building Inspector/Zoning Administrator certifies to the Board that, by reason of the facts stated in the certificate, a stay would, in the opinion of the Building Inspector/Zoning Administrator, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Building Inspector/Zoning Administrator, and on due cause shown. The Board shall fix a reasonable time for hearing on the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. Before an appeal is filed with the Clerk the appellant shall pay a fee as set by resolution of the Council.

**165.18 JURISDICTION AND POWERS OF THE BOARD.** The Board shall have the following powers and it shall be the duty of the Board:

1. To hear and decide appeals where it is alleged there is error in any order, requirements, decisions or determination made by the Building Inspector/Zoning Administrator in the enforcement of this chapter.
2. To grant a variation in the regulations when a property owner can show that his or her property was acquired in good faith, and where by reason of exceptional narrowness, shallowness or shape of a specific piece of property on record at the time of the enactment of this chapter or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of the terms of this chapter would result in peculiar and exceptional practical difficulties and particular hardship upon the owner of the property and amounts to a practical confiscation of the property as distinguished from a mere inconvenience to the owner; provided the variation can be granted without substantially impairing the general purposes and intent of the comprehensive plan as established by the regulations and plan contained in this chapter.
3. To permit the following exceptions to the district regulations set forth in this chapter, provided all exceptions shall by their design, construction and operation

adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in surrounding areas:

A. To permit erection and use of a building or the use of premises or vary the height and area regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.

B. To permit the extension of a district where the boundary line of a district divides a lot in a single ownership as shown of record or by existing contract of purchase at the time of the enactment of this chapter, but in no case shall such extension of the district boundary line exceed forty (40) feet in any direction.

In exercising the above mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as it believes proper, and to that end shall have all the powers of the Building Inspector/Zoning Administrator. The concurring vote of three (3) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector/Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter; provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been spread upon the minutes. Such resolution, immediately following the Board's final decision shall be filed in the office of the Board, and shall be open to public inspection. Every variation and exception granted or denied by the Board shall be supported by written testimony or evidence submitted in connection therewith.

**165.19 AMENDMENTS.** The Council may, on its own action or on petition, after public notice and hearing as provided by law and after report of the Planning and Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the Council. Whenever any person desires that any amendment, or change, be made in this chapter, including the text and/or map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of sixty percent (60%) of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of sixty percent (60%) of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, and intervening streets and alleys not be included in computing such 250 feet, it shall be the duty of the Council to vote upon such petition within ninety (90) days after the filing of such petition with the Clerk. In case the proposed amendment, supplement or change be disapproved by the Commission, or a protest be presented duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent, extending the depth or width of one lot or not to exceed two hundred (200) feet there from, such amendment shall not become effective except by the favorable vote of at least four-fifths (4/5) of the members of the Council. Whenever any

petition for any amendment, supplement or change of the zoning or regulations herein contained or subsequently established shall have been denied by the Council, then no new petition covering the same property or the same and additional property shall be filed with or considered by the Council until one (1) year shall have elapsed from the date of the filing of the first petition. Before any action shall be taken as provided in this section, the party proposing or recommending a change in the district regulations or district boundaries shall pay a filing fee to the Clerk to cover the approximate costs of this procedure, and under no circumstances shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law. The amount of the filing fee will be set by resolution of the Council.

**165.20 PENALTY.** Anyone, including building contractors and all persons engaged in construction and/or alteration of homes and other buildings, violating any of the provisions of this chapter shall be in violation of this Code of Ordinances, and each day that a violation is permitted to exist shall constitute a separate offense.

**165.21 CONDITIONAL USES.**

1. Nature and Purpose. The formulation and enactment of comprehensive zoning regulations is based on the division of the entire City into districts, in each of which are permitted specified uses that are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are other uses, which it may be necessary or desirable to allow in a given district, but which, because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this chapter as “conditional uses” and may include the following:

A. Uses either municipally operated or operated by publicly regulated utilities, or uses traditionally affected by public interest.

B. Uses entirely private in character which, because of their peculiar locational need, the nature of the service they offer to the public and their possible damaging influence on the neighborhood, may have to be established in a district in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.

C. Non-conforming uses which as conditional uses can be made more compatible with their surroundings.

D. Uses of a temporary nature, serving a particular need within definable time limits.

2. Application for Conditional Use. An application for a conditional use shall be filed with the City Clerk upon such form and accompanied by such information as shall be established from time to time by the Board of Adjustment. The City Clerk shall forward to the Board without delay each such application received by the City Clerk.

3. Authorization - Revocation. Conditional uses shall be authorized by a conditional use permit granted by the Board of Adjustment, after the Board shall have noticed and held a public hearing and prepared and filed a finding of fact, thereon. Such permit shall set forth any restrictions or conditions imposed in the granting thereof. Failure of the permittee to comply with such conditions or restrictions shall be deemed cause for the revocation of such permit.

4. Criteria for Granting. No conditional use shall be granted by the Board of Adjustment unless such use:
  - A. Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
  - B. Is so designed, located and proposed to be operated that it is compatible with its surroundings.
  - C. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
  - D. Shall conform to the applicable regulations of, and be compatible with the essential character of the district in which it is located.
5. Conditions Imposed Upon Grant. The Board of Adjustment may provide such conditions or restrictions upon the construction, location and operation of a conditional use, including but not limited to provisions for the protection of adjacent property, the expiration of such conditional use after a specified period of time, off-street parking and loading, as shall be deemed necessary to secure the general objectives of this chapter and to reduce injury to the value of property in the neighborhood.
6. Transferability. In the event property subject to conditional use permit is sold, transferred or conveyed, the conditional use permit will pass to the transferee subject to the same terms and conditions provided in the conditional use permit. In the event the transferee intends to materially change any use subject to a condition, the transferee must apply to the Board of Adjustment for a new conditional permit before such a change is made.
7. Authorized Improvements. The Board of Adjustment may authorize any expansion of the size of the building by up to 10% of the existing or authorized building approved by a conditional use permit. Provided, however, that the expansion is not in violation of the provisions of the original conditional use permit.
8. Fees for Applications for Conditional Uses. Any application for a conditional use filed by, or on behalf of, the owner or owners of the property affected, shall be accompanied by a fee as determined by City Council resolution.
9. Notice of Hearing. An application for conditional use permit shall be filed with the Board of Adjustment. The application shall be in such form and shall contain such information as the Board of Adjustment shall, from time to time, prescribe by general rule. The Board of Adjustment shall meet at the call of the chairperson and at other such times as the Board of Adjustment may determine. The notice of the time and place of such meetings shall be published two times, once not less than seven (7) nor more than fourteen (14) and once not less than fourteen (14) nor more than twenty (20) days before the date set for the meeting of the Board of Adjustment. Notice shall also be mailed to all property owners within 400 feet of the outside boundaries of the subject property at least fourteen (14) days prior to the meeting date. Notice shall also be posted prominently in a location on the site at least two weeks in advance of the hearing. Such notices shall contain a statement of the particular purpose of such meeting and a brief description of the location of the property under consideration at such meeting. All meetings of the Board of Adjustment shall be open to the public.

*(Ord. 1076 – Dec. 10 Supp.)*

[The next page is 851]



## CHAPTER 170

# SUBDIVISION REGULATIONS

170.01 Purpose

170.02 Definitions

170.03 Plat Approval and Acceptance

170.04 Information Required in Plats

170.05 Attachments to Plats

170.06 Minimum Standards of Design and Development

170.07 Enforcement

170.08 Variations

**170.01 PURPOSE.** The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing development 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 this chapter, the following words and terms are defined:

1. “Building line” means a line between which and an abutting street or public alley no building or structure may be erected.
2. “Commission” means the Planning and Zoning Commission of the City.
3. “Metes and bounds” means the method used to describe a tract of land intended to be used for dwelling or other purposes, so that it can be recorded in the County Recorder’s office, as contrasted with the description of a part of a properly approved and recorded subdivision plat by the lot and block number.
4. “Plat” means a map, drawing or chart of a subdivision.
5. “Subdivision” means the division of a lot, tract or parcel of land into three (3) or more lots, plots, sites or other divisions of land, for the purpose of either immediate or future sale or of building development. It also includes resubdivision of land or lots.

**170.03 PLAT APPROVAL AND ACCEPTANCE.** Procedures for plat approval and acceptance are as follows:

1. Preliminary Approval by Commission. Whenever the owner of any tract or parcel of land within the jurisdiction of this chapter wishes to subdivide or plat the same, said person shall file a preliminary plat in triplicate, together with any other required information, with the Clerk. Two (2) copies of said plat and other information shall be referred by the Clerk to the Commission for its preliminary study and approval. Such preliminary plat shall contain such information and data as outlined in Section 170.04(1).
2. Study of Preliminary Plat by the Commission. The Commission shall study the preliminary plat and other information submitted to see if it conforms with the requirements of this chapter and shall approve or reject such plat within thirty (30) days after the date of the submission thereof to the Commission. The approval of the preliminary plat constitutes authorization to proceed with the preparation of the final plat, but the final plat must be submitted to the Commission and the Council for approval as provided in the following section.

3. Final Plat of Subdivision. The subdivider shall also file with the Clerk for submission to the Commission, for its approval or rejection, the final plat of the subdivision which shall contain the data and information outlined in Section 170.04(2) of this chapter. If the Commission approves the final plat, such approval and the date thereof shall be noted on the plat over the signature of the Chairperson of the Commission.
4. Approval of the Council. After the approval of the final plat and plan by the Commission, it shall be submitted to the Council for final approval and for acceptance of all streets, alleys, easements, parks or other areas preserved for or dedicated to the public.
5. Approval by the Council After the Disapproval of the Commission. If the Commission does not approve the final plat of the subdivision, the Council may approve said plat and accept the streets, alleys, easements, parks or other areas preserved for or dedicated to the public by said plat, only by a four-fifths (4/5) vote of the entire membership of the Council.
6. Filing in Office of Clerk. After approval of the final plat by the Council, two (2) copies of such final plat shall be filed in the office of the Clerk.

**170.04 INFORMATION REQUIRED ON PLATS.** Plat information requirements are as follows:

1. Preliminary Plat. In seeking to subdivide land, the owner shall submit two (2) copies of a preliminary plat to the Commission before submission of the final plat. The preliminary plat shall be drawn to scale and shall show the proposed location and width of streets, lot lines, building lines and areas of each proposed lot. The plat shall also show surrounding streets, lots, water courses, sewers and water mains. The scale of such preliminary plat shall not be less than one inch to one hundred feet (1" = 100'). Wherever the land is so rolling or rugged that the preliminary location and grades of streets and sewers cannot be properly considered without the aid of a topographical map, the Commission may require the developer to provide a topographical map of the property showing contour intervals of not less than five (5) feet. Any plat not containing all information specified above shall not be considered by the Commission. A filing fee shall be required to cover processing costs. The amount of the filing fee will be set by resolution of the Council.
2. Final Plat. Any final plat that does not show all information specified shall not be considered by the Commission. A filing fee shall be required to cover processing costs. The amount of the filing fee will be set by resolution of the Council. The final plat map on a reproducible original (Mylar) and two (2) prints thereof shall be submitted to the Commission. It shall show:
  - A. The boundaries of the property.
  - B. The lines of all proposed streets and alleys, with their widths and names, and any other areas intended to be dedicated to public use; the names of the streets shall be a continuation of the existing method of naming streets in the City.
  - C. The lines of adjoining streets and alleys, with their widths and names.
  - D. All lot lines, building lines, and easements, with figures showing their dimensions.

- E. All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area or of the lots, streets, alleys, easements and building line setbacks, and any other similar public or private uses. The linear dimensions shall be expressed in feet and decimals of a foot.
- F. Radii, arcs, and chords, points of tangency, central angles for all circilinear streets and radii for all rounded corners.
- G. All monuments, together with their descriptions.
- H. Title and description of property subdivided, showing its location and extent, points of compass, scale of plan, classification of property under zoning law, and name of sub-divider and of registered land surveyor staking the lots.
- I. Profiles may be required of any streets.
- J. Any private restrictions shall be shown on the plat or reference made to them thereon; and plats shall contain proper acknowledgments of owners and mortgagees accepting said platting and restrictions.

**170.05 ATTACHMENTS TO PLATS.** Final plats shall be accompanied by the following documents:

1. A statement by the owner and spouse, if any, that the subdivision is with the owners' free consent and is in accordance with the desire of the owners. This statement must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds.
2. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds.
3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.
4. Resolution and certificate for approval by the Council and signature of the Mayor and Clerk.
5. 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.

**170.06 MINIMUM STANDARDS OF DESIGN AND DEVELOPMENT.** No preliminary or final plat of a subdivision shall be approved by either the Commission or by the Council unless it conforms to the minimum standards and requirements contained in this chapter.

1. Acre Subdivision. Whenever the area is divided into lots containing one (1) or more acres and there are indications that such lots will eventually be subdivided into small building plots, consideration must be given to the street and lot arrangement of the original subdivision so that additional streets can be opened which will permit a logical arrangement of smaller lots.

2. Relation to Adjoining Street System. The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projections where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. The street and alley arrangement must also be such as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted.
3. Street Right-of-way Width. The minimum width of street right-of-ways shall be sixty (60) feet.
4. Street Width. The minimum width of streets shall be twenty (20) feet, except in those cases where topographical conditions, existing streets or special conditions make a street of less width more suitable. Under these conditions the Commission may waive the minimum requirements.
5. Street Jogs at Intersections. At street intersections, street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited, except where topographic or other physical conditions make such jogs unavoidable.
6. Street Angles at Intersections. Streets shall intersect as nearly at right angles as possible, and no street shall intersect any other street at an angle less than sixty (60) degrees.
7. Dead-end Streets. Dead-end streets are prohibited except where a street is planned to continue past the subdivider's property. A dead-end street shall terminate in a temporary circular right-of-way with a minimum diameter of ninety (90) feet, unless the Commission approves an equally safe and convenient space. No dead-end street shall be longer than six hundred (600) feet. Cul-de-sacs shall not exceed six hundred (600) feet in length and shall be provided with a turnaround with a minimum right-of-way diameter of one hundred twenty (120) feet. The length of the cul-de-sac shall be measured along its centerline from the turnaround to the intersecting point.
8. Alleys. The minimum width of an alley in a residential block shall be fifteen (15) feet. (Alleys are not recommended for residential districts except under unusual condition.) Alleys will be required in the rear of all business lots and shall be at least twenty (20) feet wide.
9. Easements Where There Are No Alleys. Where alleys are not provided, easements of not less than five (5) feet in width shall be provided on each side of all rear lot lines and on those side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities.
10. Length of Blocks. No blocks shall be longer than one thousand (1,000) feet between street lines. Blocks over seven hundred fifty (750) feet in length shall provide a crosswalk near the center of the block. The right-of-way through such blocks shall not be less than ten (10) feet in width.
11. Width of Blocks. The width of blocks shall not be less than two hundred (200) feet and not more than three hundred (300) feet, except that when such

requirement would entail unusual and substantial difficulties or hardship or when it is desired to provide a development containing large residential lots, the Commission and the Council may modify such requirements and allow the subdivider to plat blocks of other widths.

12. Lot Lines. All side lines of lots shall be at right angles to straight street lines or radial to curved street lines, unless a variation of this rule will give a better street and lot plan. Lots with double frontage shall be avoided.

13. Size and Shape of Lots. The minimum dimensions for lots shall be sixty-six (66) feet for width and one hundred (100) feet for depth, and in no case shall a lot that is to be used for residential purposes contain less area than is required by the lot area regulation of the zoning district in which the property is located. In laying out an arrangement of lots, the subdivider should, whenever possible, arrange for wide, shallow lots and avoid long, narrow lots.

14. Corner Lots. All corner lots shall have extra width sufficient to permit the maintenance of building lines on both the front end and side streets as required by any applicable zoning regulations.

15. Building Lines. Building lines shall be shown on all lots intended for residential use of any character, and on commercial lots immediately adjoining residential areas. Such building lines shall not be less than required by any applicable zoning regulations.

16. Character of Development. The Commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum deed restrictions be placed upon the property, which restrictions would prevent such construction which would clearly depreciate the character and value of adjoining property. The Commission may also require that the deed restrictions provide for the creation of a property owners' association which would be responsible for the enforcement of the restrictions and for the protection and improvement of the general welfare of the subdivision.

17. Improvements. Before any portion of the final plat of any subdivision is finally approved for recording, the subdivider shall make and install improvements as required in subsections A through G of this subsection, in that portion of the plat which is to be finally recorded. In lieu of final completion of the minimum improvements before the plat is finally approved, the subdivider may post a bond, approved by the City Attorney, with the City, which bond will insure to the City that the improvements will be completed by the subdivider within one year after final approval of the plat. The amount of the bond shall be not less than the estimated cost of the improvements, and the amount of the estimate must be approved by a registered engineer. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same.

A. Grading and Improving Streets. The subdivider shall grade and improve all streets and alleys (if any) within the subdivision. The surfacing of such streets and alleys shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas, but in no case shall it consist of less than a minimum granular base of six (6) inches of crushed rock plus seal coat. The street design shall be certified by a registered professional engineer.

B. Grading and Improving Lots. The subdivider shall, whenever necessary, grade any portion of the property subdivided into lots so that each lot that is to be offered for sale will be usable and suitable for the erection of residential property or any structure thereon.

C. The subdivider shall install sanitary sewers and provide a connection for each lot. Such installations shall be in accordance with good engineering practices, shall be shown on plans drawn by a registered engineer and shall meet the sanitation provisions of the City, County, State Health Department and the State Department of Natural Resources.

D. Storm Sewers. Where deemed necessary by the Commission, the developer shall install a storm sewer adequate to serve the platted area. The design of the storm sewer system shall be certified by a registered professional engineer.

E. Water Mains. The subdivider shall install water mains and fire hydrants in the subdivided area. Such installations shall be in accordance with the standards and specifications of the City Water Department and the State Department of Natural Resources, and fire hydrant locations should meet the approval of the City Water Department. The design of the water mains shall be certified by a registered professional engineer.

F. Other Improvements. It is also desirable to install other improvements such as sidewalks, electric lines, street lights, gas mains and similar facilities in any subdivision. Whenever the Commission deems it necessary, they may require that such improvements shall be installed before the plat is approved.

**170.07 ENFORCEMENT.** Enforcement provisions are as follows:

1. Filing of Plat. No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein.
2. Building Permits. The Building Inspector/Zoning Administrator shall not issue building or repair permits for any structure located on a lot in any subdivision, the plat of which has been prepared after the date of the adoption of the ordinance codified in this chapter but which has not been approved in accordance with the provisions contained herein. An original tract may be divided into two (2) lots or tracts and not be subject to the provisions of this section. If an original tract is divided into more than two (2) lots or tracts after the date of the adoption of such ordinance, no building or repair permits shall be issued for any structure located or proposed to be located on any of such tracts or lots, unless or until a plat as required by this chapter has been fully approved by the Council.
3. Public Improvements. The Council shall not permit any public improvement over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after the date of the adoption of the ordinance codified in this chapter unless such subdivision or street has been approved in accordance with the provisions contained herein.

**170.08 VARIATIONS.** Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of Section 170.06, subsections 2, 11, 12, 14 and 18 would result in real difficulties and

substantial hardships, the Commission may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner, but at the same time the public welfare and interests of the City are protected and the general intent and spirit of this chapter are preserved.

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**CODE OF ORDINANCES  
CITY OF SULLY, IOWA**

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