# CODE OF ORDINANCES

## OF THE

# CITY OF

# HARPERS FERRY, IOWA

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# CODE OF ORDINANCES
# OF THE
# CITY OF HARPERS FERRY, IOWA

***Adopted June 14, 2019, by Ordinance No. 315***

# SUPPLEMENT RECORD

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# CODE OF ORDINANCES

# CITY OF HARPERS FERRY, IOWA

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# CHAPTER 1

# CODE OF ORDINANCES


**1.01 Title**
**1.02 Definitions**
**1.03 City Powers**
**1.04 Indemnity**
**1.05 Personal Injuries**
**1.06 Rules of Construction**
**1.07 Extension of Authority**
**1.08 Amendments**
**1.09 Catchlines and Notes**
**1.10 Altering Code**
**1.11 Severability**
**1.12 Warrants**
**1.13 General Standards for Action**
**1.14 Standard Penalty**


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

3. "Clerk" means the city clerk of Harpers Ferry, 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 Harpers Ferry, Iowa.

6. "Council" means the city council of Harpers Ferry, Iowa.

7. "County" means Allamakee 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 Harpers Ferry, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

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

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

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

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

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

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

*(Code of Iowa, Sec. 364.1)*

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

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

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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

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

**1.13 GENERAL STANDARDS FOR ACTION.** Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board, or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny, or

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

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least $65.00 but not to exceed $625.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.[†]

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

[The next page is 9]

[†] **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 4.

# CHAPTER 2

# CHARTER


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


**2.01 TITLE.** This chapter may be cited as the charter of the City of Harpers Ferry, Iowa.[†]

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

[†] **EDITOR'S NOTE**: Ordinance No. 82 adopting a charter for the City was passed and approved by the Council on September 15, 1975.

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# CHAPTER 3

# BOUNDARIES

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

*Commencing at the 1/16 Post center of the Northeast Quarter (NE¼) Section 23, Township 97, Range 3, West of the 5th P.M. and thence east on 1/8 line 20 chains to Section line between Sections 23 and 24, thence east on 8th line through Section 24, 52 chs. and intersect slough.*

*Then at the 1/16 Post, center of the NE ¼ Sec. 23, thence south 19 chs. on 1/8 line to Co. road No. 163, thence west along said road until it intersects road No. 224, thence SE along said public highway to the south 1/4 Post, of Sec. 23 thence south from said 1/4 Post on centerline of Sec. 26, 32 chs. and 10 lks. to the right bank of the Harper's channel, thence NE along Harper's channel to the north 1/8 line of Sec. 24-97-3 and containing Harpers Ferry also the R.R. addition to Harpers Ferry and all territory included within the above described boundaries.*

*And further defined as follows:*

*Beginning at the Harper's Channel 32.10 chains south of the 1/4 Section Corner between Sections 23 and 26 Town. 97 North Range 3 West of the 5th P.M.; thence north along 1/4 Section line, 32.10 chains to said 1/4 Section Corner: thence N 32º E along road No. 224, 15 chains; thence N 25º E along said road, 8.40 chains to 1/4 section; thence N 16º E along said road 10.60 chains; thence N 25º E along said road 5.27 chains to center of Road 409; thence N 16º W along center of said road 409, 4.50 chains; thence N 72º E along road 3.30 chains to a point 50 links north of 1/8 Section Corner between NE¼ and SE¼ of Section 23; thence north along 1/8 Section line 19.37 chains to 1/16 Section Corner; thence east 72.15 chains to Harper's Channel, thence along the low water line of Harper's Channel to place of beginning.*

*And*

*Part of the Northwest Quarter of the Northwest Quarter and part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 97 North, Range 3 West of the 5th P.M., Allamakee County, Iowa, containing 7.20 acres, more or less and more particularly described by metes and bounds as follows:*

*Commencing at the West ¼ corner of Section 24, Township 97 North, Range 3 West of the 5th P.M.; thence N 00°21'32" E, 1,171.43 feet along the west line of the NW¼ of said Section 24; thence N 89°34'58" E, 1,135.54 feet along the south line of the NW¼ NW¼ of said Section 24 to the Point of Beginning; thence N 89°34'58" E, 785.44 feet along the south line of the NW¼ NW¼ and the NE ¼ NW¼ of said Section 24; thence N 41°58'59" E, 261.48 feet; thence N 48°01'01" W, 120.00 feet; thence N 41°58'59" E, 60.48 feet; thence N 48°01'01" W, 340.00 feet; thence S 41°58'59" W, 169.99 feet; thence N 48°01'01" W, 90.00 feet; thence N 41°58'59" E, 30.00 feet; thence N 48°01'01" W, 30.00 feet; thence S 41°58'59" W, 711.59 feet along the easterly right-of-way line of a railroad to the Point of Beginning. Said described parcel contains 7.20 acres, more or less.*

*The west line of the NW¼ of Section 24, T97N, R3W is assumed to bear N 00°21'32" E.*

*And*

*Lot 1 in Government Lot 2; Lot 1 in Lot 2 in the Northeast Quarter of the Northwest Quarter, AND ALSO all that part of Lot 2 in Government Lot 3 lying northeasterly of the following described line: Commencing at the Northwest Corner of Section 26, Township 97 North, Range 3 West of the 5th P.M.; thence N 88°50'43" E, 1,493.08 feet along the north line of said Section 26; thence S 01°13'00" W, 2,618.64 feet to the southeast corner of the SW¼ NW¼ of said Section 26; thence N 89°10'30" E, 1,003.13 feet; thence S 42°12'20" W, 80.08 feet; thence S 50°42'47" E, 28.82 feet; thence S 42°08'15" W, 59.87 feet to a point on the normal water line of the Mississippi River which is the Point of Beginning of said described line; thence N 50°42'47" W, 148.00 feet; thence N 44°02'43" E, 155.00 feet; thence N 48°12'17" W, 8.33 feet; thence N 33°29'45" E, 67.00 feet; thence N 28º01'18" W, 77.33 feet; thence 80.90 feet along a 148.78 foot radius curve concave northeasterly with a central angle of 31°09'23" and a long chord which bears N 12°26'37" W, 79.91 feet; thence 68.22 feet along a 267.37 foot radius curve concave westerly with a central angle of 14°37'06" and a long chord which bears N 04°10'30" W, 68.03 feet; thence S 68°12'38" W, 5.08 feet; thence N 11°29'35" W, 35.16 feet; thence 256.18 feet along a 934.43 foot radius curve concave easterly with a central angle of 15°42'28" and a long chord which bears N 03°37'47" W, 255.37 feet; thence N 04°13'32" E, 47.37 feet; thence 79.41 feet along a 84.79 foot radius curve concave southwesterly with a central angle of 53°39'34" and a long chord which bears N 22°36'16" W, 76.54 feet; thence N 49°25'58" W, 181.66 feet; thence N 57°15'59" W, 103.16 feet to a point on the easterly right-of-way line of a railroad which is the Point of Ending; all in Section 26, Township 97 North, Range 3 West of the 5th P.M., Allamakee County, Iowa.*

*And*

*Commencing at the North 1/4 Corner of Section 24, Township 97 North, Range 3 West of the 5th P.M.; thence S 01°25'54" E, 1,214.77 feet to the southeast corner of the NE¼ NW¼ of said Section 24; thence N 88°19'42" E, 421.00 feet along the north line of Government Lot 8 in said Section 24 to a point on the normal water line (Elevation 616.1 NAVD 1988) of the Mississippi River which is the Point of Beginning and hereinafter referred to as Point A; thence S 88°19'42" W, 421.00 feet along the north line of Government Lot 8 in said Section 24; thence S 88°18'17" W, 761.74 feet along the south line of the NE¼ NW¼ of said Section 24; thence N 40°42'20" E, 261.48 feet; thence N 49°17'40" W, 120.00 feet; thence N 40°42'20" E, 60.48 feet; thence N 49°17'40" W, 340.00 feet; thence S 40°42'20" W, 20.00 feet; thence N 49°17'40" W, 120.00 feet; thence S 40°42'20" W, 831.59 feet; thence S 88°18'17" W, 1,165.74 feet along the north line of the SW¼ NW¼ of said Section 24; thence S 88°09'06" W, 1,315.22 feet along the north line of the SE¼ NE¼ of Section 23, Township 97 North, Range 3 West of the 5th P.M.; thence S 02°19'48" E, 1,164.94 feet along the west line of the SE¼ NE¼ of said Section 23 to a point that bears N 02°19'48" W, 34.99 feet from the southwest comer of said SE¼ NE¼; thence S 62°46'15" W, 226.21 feet; thence S 17°03'20" E, 300.39 feet; thence S 23°46'03" W, 346.60 feet; thence S 14°45'12" W, 699.53 feet; thence S 23°46'03" W, 552.46 feet; thence S 30°47'59" W, 983.96 feet; thence N 87°20'43" E, 90.28 feet along the*

*south line of the SW¼ of Section 24, Township 97 North, Range 3 West of the 5th P.M.; thence S 29°10'15" W, 45.70 feet along the easterly right-of-way line of a railroad; thence S 29°28'14" W, 546.10 feet along the easterly right-of-way line of a railroad; thence S 29°09'59" W, 237.54 feet along the easterly right-of-way line of a railroad; thence S 61°35'14" E, 133.32 feet; thence S 12°54'46" W, 212.52 feet; thence S 37°50'14" E, 411.18 feet; thence S 30°54'46" W, 567.60 feet; thence S 60°09'46" W, 227.04 feet; thence N 73°35'14" W, 224.83 feet; thence S 51°11'54" E, 66.99 feet; thence 79.41 feet along a 84.79 foot radius curve concave southwesterly with a central angle of 53°39'39" and a long chord which bears S 24°22'12" E, 76.54 feet; thence S 02°27'36" W 47.37 feet; thence 256.17 feet along a 934.43 foot radius curve concave easterly with a central angle of 15°42'27" and a long chord which bears S 05°23'43" E, 255.37 feet; thence S 13°15'31" E, 35.16 feet; thence N 66°26'42" E, 5.08 feet; thence 68.21 feet along a 267.37 foot radius curve concave westerly with a central angle of 14°37'05" and a long chord which bears S 05°56'26" E, 68.03 feet; thence 80.90 feet along a 148.78 foot radius curve concave easterly with a central angle of 31°09'22" and a long chord which bears S 14°12'33" E 79.91 feet; thence S 29°47'14" E, 77.33 feet; thence S 31°43'49" W, 67.00 feet; thence S 49°58'13" E, 8.33 feet; thence S 42°16'47" W, 155.00 feet; thence S 53°08'15" E, 148.00 feet to a point on the normal water line (Elevation 616.1 NAVD 1988) of the Mississippi River; thence northeasterly along the normal water line of the Mississippi River to Point A (the meander line bears N 41°39'07" E, 9,109.96 feet) to the Point of Beginning. Bearings are based on the Iowa State Plane Coordinate System North Zone (1401) Horizontal NAD 83 (1996).*

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

2. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

3. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

**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 – not to exceed $750.00

   B. Each repeat offense – not to exceed $1,000.00

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

2. Special Civil Penalties.

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

[†] **EDITOR'S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14.

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

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

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

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

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

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

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

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# CHAPTER 5

# OPERATING PROCEDURES


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


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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

A. Mayor

B. City Clerk

C. Members of all boards, commissions, or bodies created by law.

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.
*(Code of Iowa, Sec. 362.5[3l])*

12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.
*(Code of Iowa, Sec. 362.5[3m])*

**5.08 RESIGNATIONS.** An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected if, during that time, the compensation of the office has been increased.
*(Code of Iowa, Sec. 372.13[9])*

**5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.** Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within 30 days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within 30 days after the date the request is filed, unless the person removed requests a later date.
*(Code of Iowa, Sec. 372.15)*

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

**5.11 GIFTS.** Except as otherwise provided in Chapter 68B of the *Code of Iowa*, a public official, public employee or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a "restricted donor" as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee, or candidate.
*(Code of Iowa, Sec. 68B.22)*

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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 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 City Clerk is the finance and accounting officer of the City and is responsible for the administration of the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such

hearing and a summary of the proposed budget to be published not less than 10 or more than 20 days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: City Clerk, Mayor, and Mayor Pro Tem, following Council approval, except as provided by subsection 5 hereof.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.22)*

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# CHAPTER 15

# MAYOR


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


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

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
*(Code of Iowa, Sec. 372.14[1])*

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
*(Code of Iowa, Sec. 372.14[2])*

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
*(Code of Iowa, Sec. 372.14[1])*

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
*(Code of Iowa, Sec. 380.5 & 380.6[2])*

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

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

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

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

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

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

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

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

1. Mayor Pro Tem

2. Library Board of Trustees, with Council approval

**15.04 COMPENSATION.** The salary of the Mayor is $350.00 per month, payable quarterly, plus reimbursement for expenses.
*(Code of Iowa, Sec. 372.13[8])*

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

# CHAPTER 16

# MAYOR PRO TEM


16.01 Vice President of Council
16.02 Powers and Duties
16.03 Voting Rights
16.04 Compensation


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

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

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

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

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

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

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

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

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# CHAPTER 17

# CITY COUNCIL


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


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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
*(Code of Iowa, Sec. 372.13[5])*

3. Quorum. A majority of all Council members is a quorum.
*(Code of Iowa, Sec. 372.13[1])*

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
*(Code of Iowa, Sec. 372.13[5])*

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

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

1. City Clerk
2. City Attorney
3. Airport Authority Board Members

**17.06 COMPENSATION.** The salary of each Council member is $25.00 for each meeting of the Council attended, payable quarterly, plus reimbursement for expenses.
*(Code of Iowa, Sec. 372.13[8])*

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# CHAPTER 18

# CITY CLERK


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


**18.01 APPOINTMENT AND COMPENSATION.** At its first meeting in January following the regular City election, the Council shall appoint by majority vote a City Clerk to serve for a term of two years. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 362.3)*

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

Peoples State Bank
Post Office
City Hall

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

***(Subsection 2 – Ord. 316 – Jul. 19 Supp.)***

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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# CHAPTER 19

# CITY TREASURER


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


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

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law and Council direction.

2. Record of Fund. Keep the record of each fund separate.

3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.

4. Record Disbursements. Keep an accurate account of all disbursements, money, or property, specifying date, to whom, and from what fund paid.

5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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# CHAPTER 20

# CITY ATTORNEY


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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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# CHAPTER 21

# 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 Contracting with Other Libraries**
**21.07 Nonresident Use**
**21.08 Expenditures**
**21.09 Annual Report**
**21.10 Injury to Books or Property**
**21.11 Theft**
**21.12 Notice Posted**


**21.01 PUBLIC LIBRARY.** The public library for the City is known as the Delores Tillinghast Memorial 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 seven members, no fewer than four or more than six of whom reside in the City, and no fewer than one or more than three of whom reside in the unincorporated part of the County. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident members (except the one appointed by the County Board of Supervisors) are to be appointed by the Mayor with the approval of the Council. One nonresident member shall be appointed by the County Board of Supervisors.

**21.03 QUALIFICATIONS OF TRUSTEES.** All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident members of the Board shall be bona fide citizens and residents of the unincorporated County. Members shall be over the age of 18 years.

**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 six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.

2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.

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

6. Purchases. To select, or authorize the 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. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

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

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

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

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

*(Code of Iowa, Ch. 661)*

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

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

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

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

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

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

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

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

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

# CHAPTER 22

# AIRPORT AUTHORITY

**22.01 City's Membership in Authority**
**22.02 Execution of Agreement**
**22.03 Appointment of Member**

**22.01 CITY'S MEMBERSHIP IN AUTHORITY.** The amendments to the Agreement for the Creation of the Allamakee County Airport Authority, necessitated by 1989 changes in *Code of Iowa* Chapter 330A, are approved and the City shall continue its membership in said Authority under the terms of the Amended Agreement for the Creation of the Allamakee Airport Authority, the same to be effective on or about January 1, 1990.

**22.02 EXECUTION OF AGREEMENT.** The Mayor and the Clerk are hereby authorized and directed to promptly execute on behalf of the City said Amended Agreement for the Creation of the Allamakee County Airport Authority, a copy of which shall be maintained by the Clerk in the records of the City available for public inspection.

**22.03 APPOINTMENT OF MEMBER.** The Council shall appoint one resident of the City who is not an elected official or full-time paid employee of the City to serve as a member of the Airport Authority Board and shall likewise appoint an Airport Authority Board Member in the future whenever a vacancy occurs in said position, in accordance with the terms of said Amended Agreement.

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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 PROTECTION

**35.01 AGREEMENT.** A Contract Agreement for Fire Protection Services was entered into on November 9, 1988, between the City and the Harpers Ferry Volunteer Fire Department, Inc., pursuant to Chapter 28E of the *Code of Iowa*.

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# CHAPTER 40

# PUBLIC PEACE


**40.01 Assault**
**40.02 Harassment**
**40.03 Disorderly Conduct**
**40.04 Unlawful Assembly**
**40.05 Failure to Disperse**


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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 723.5)*

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

*(Code of Iowa, Sec. 723.2)*

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

*(Code of Iowa, Sec. 723.3)*

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# CHAPTER 41

# PUBLIC HEALTH AND SAFETY


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


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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.

2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

*(Code of Iowa, Sec. 719.1A)*

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

**41.06 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, 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, or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 708.12)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.11 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.

2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

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

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

**41.14 FIREWORKS.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:

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 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 noon 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 noon and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.

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

(3) Between the hours of noon 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.

## 41.15 DRUG PARAPHERNALIA.

*(Code of Iowa, Sec. 124.414)*

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

A. Manufacture a controlled substance.

B. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

C. Test the strength, effectiveness, or purity of a controlled substance.

D. Enhance the effect of a controlled substance.

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

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

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# CHAPTER 42

# PUBLIC AND PRIVATE PROPERTY


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


## 42.01 TRESPASSING.

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

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**42.02 CRIMINAL MISCHIEF.** It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter, or destroy property.
*(Code of Iowa, Sec. 716.1)*

**42.03 DEFACING PROCLAMATIONS OR NOTICES.** It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.
*(Code of Iowa, Sec. 716.1)*

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

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

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

*(Code of Iowa, Sec. 714.8)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Chapter 21 – Library
   - A. Section 21.10 – Injury to Books or Property
   - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
   - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
   - A. Section 135.01 – Removal of Warning Devices
   - B. Section 135.02 – Obstructing or Defacing
   - C. Section 135.03 – Placing Debris On
   - D. Section 135.04 – Playing In
   - E. Section 135.05 – Traveling on Barricaded Street or Alley
   - F. Section 135.08 – Burning Prohibited
   - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
   - A. Section 136.11 – Interference with Sidewalk Improvements
   - B. Section 136.15 – Fires or Fuel on Sidewalks
   - C. Section 136.16 – Defacing
   - D. Section 136.17 – Debris on Sidewalks
   - E. Section 136.18 – Merchandise Display
   - F. Section 136.19 – Sales Stands

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# CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION


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


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

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

*(Code of Iowa, Sec. 123.47[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 liquor control licensee or wine or beer permittee.

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

**45.02 PUBLIC CONSUMPTION OR INTOXICATION.**

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 123.46)*

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

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

*(Code of Iowa, Sec. 123.47)*

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# CHAPTER 46

# MINORS

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

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

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

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

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

   C. "Minor" means any unemancipated person under the age of 18 years.

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

   E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. 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 11:00 p.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:30 a.m. and 5:00 a.m. on Friday and Saturday.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

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

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

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

5. Enforcement Procedures.

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

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

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

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

6. Penalties.

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

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

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

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

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 18 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under 18 years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco

products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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# CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE


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


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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

1. Offensive Smells. Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

2. Filth or Noisome Substance. Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

3. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

4. Water Pollution. Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. Blocking Public and Private Ways. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

6. Billboards. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**

8. Air Pollution. Emission of dense smoke, noxious fumes, or fly ash.

9. Weeds, Brush. Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

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

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

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

13. Outdoor Storage. The following items stored in outdoor areas or in sheds, lean-tos, or other structures not totally enclosed by structural walls: building materials, abandoned or inoperable vehicles, non-registered vehicles, auto parts, tires, packing boxes, wooden pallets, broken or discarded furniture, broken or discarded household furnishings, or equipment including carpeting, appliances, and other typical household items, or any item not normally required in the day to day use of the property when stored continuously in excess of 72 hours within any portion of a front, side, or rear yard area.

14. Attractive Nuisance. Any attractive nuisance dangerous to children in the form of abandoned vehicles, abandoned or broken equipment, hazardous pools, ponds, excavations, materials, including building materials, debris, or neglected machinery.

15. Real Property. Real property maintained in such condition as it becomes so defective, unsightly, or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of the surrounding properties or is materially detrimental to properties and improvements.

16. Walls, Fences, and Hedges. Any wall, fence, or hedge in such condition as to constitute a hazard to persons or property or to cause depreciation in the value of any adjacent or nearby property.

17. Discarded or Unused Material. Any discarded or unused material on real property that is not consistent with the condition and visual appearance of the surrounding or adjacent property.

18. Building Debris. The causing of the accumulation of building debris and/or construction materials, tools, equipment, or machinery on any property within the City limits after the completion of a construction project, the occasioning of which becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

19. Grass, Weeds, or Other Vegetation. The growth of grass, weeds, or other vegetation in any lawn or yard, including public parking or boulevard areas abutting private property, to an average height in excess of six inches. As used in this subsection, "grass, weeds, or other vegetation" shall not include trees, shrubs, and tended gardens and flower beds nor any vegetation on land used for agricultural purposes.

20. Outdoor Storage. The outdoor storage of any pile or collection of wood or boards except neatly stacked, pre-cut wood on premises containing a wood burning furnace, stove or fireplace and intended for use therein. This subsection shall not apply

to any commercial lumber yard nor to any other premises on which there is regularly and lawfully conducted a commercial or industrial activity in which such wood or boards are used, consumed, or sold.

21. Broken or Missing Windows and Doors. Any building or structure containing a broken or missing external window or door or any other opening exposing the interior to the elements and/or permitting access to the interior by birds and animals. This subsection shall not apply to carports and other structures designed for use without total enclosure.

22. Outdoor Container Storage. The outdoor storage of any container or other object capable of catching and retaining precipitation. This subsection shall not apply to bird baths and other customary lawn ornaments and landscaping items.

23. Habitat of Feral Rats. Any real property or any building or structure thereon that has become the habitat of feral rats.

24. Other Conditions. Any other condition, activity, or circumstances declared to constitute a nuisance under any other provisions of this Code.

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

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

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

*(Code of Iowa, Sec. 657.3)*

**50.05 NUISANCE ABATEMENT.** Whenever the Mayor or 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: †

† **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.

A. Description of Nuisance. A description of what constitutes the nuisance.

B. Location of Nuisance. The location of the nuisance.

C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

D. Reasonable Time. A reasonable time within which to complete the abatement. For purposes of the abatement of a vegetation nuisance under Section 50.02(19), a "reasonable time" for abatement shall be the end of the fifth calendar day following the date on which the abatement notice is mailed.

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 $500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

*(Code of Iowa, Sec. 364.13)*

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

**50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE.** In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

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# CHAPTER 51

# JUNK AND JUNK VEHICLES


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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

**51.04 EXCEPTIONS.** The provisions of this chapter do not apply to the following:

1. A vehicle in an enclosed building.

2. A vehicle on the premises of a business enterprise operated in the City when necessary to the operation of said business enterprise.

3. A vehicle in an appropriate storage space or depository maintained by the City.

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

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

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# CHAPTER 55

# ANIMAL PROTECTION AND CONTROL


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


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

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

2. "Animal" means a nonhuman vertebrate.

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

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

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

A. The sale or offer for sale of goods or services.

B. A recruitment for employment or membership in an organization.

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

5. "Fair" means any of the following:

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

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.

7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.

*(Code of Iowa, Sec. 717.1)*

8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster,

mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

**55.02 ANIMAL NEGLECT.** It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means that causes unjustified pain, distress or suffering.

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

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

*(Code of Iowa, Sec. 717.2)*

**55.04 ABANDONMENT OF CATS AND DOGS.** A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

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

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

**55.06 AT LARGE PROHIBITED.** It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

**55.07 DAMAGE OR INTERFERENCE.** It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

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

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

**55.10 RABIES VACCINATION.** Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

*(Code of Iowa, Sec. 351.33)*

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

*(Code of Iowa, Sec. 351.38)*

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

*(Code of Iowa, Sec. 351.39)*

**55.13 SUMMONS.** Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

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

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

**55.15 PET AWARDS PROHIBITED.**

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

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

   A. A prize for participating in a game.

   B. A prize for participating in a fair.

   C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

   D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.

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

   A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

   B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated

with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

**55.16 CLEANING DEFECATED MATERIAL.** Owners of dogs or cats shall be responsible for cleaning up or picking up immediately or within a reasonable time any material defecated by their dog(s) or cat(s) within the City limits.

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# CHAPTER 60

# ADMINISTRATION OF TRAFFIC CODE


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


**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Harpers Ferry Traffic Code" (and are referred to herein as the "Traffic Code.")

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

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

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

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

6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.

8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

9. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the 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 Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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# CHAPTER 61

# TRAFFIC CONTROL DEVICES


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


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

*(Code of Iowa, Sec. 321.255)*

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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# CHAPTER 62

# GENERAL TRAFFIC REGULATIONS


**62.01 Violation of Regulations**
**62.02 Play Streets Designated**
**62.03 Vehicles on Sidewalks**
**62.04 Clinging to Vehicle**
**62.05 Quiet Zones**
**62.06 Obstructing View at Intersections**


**62.01 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.
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27. Section 321.221 – Employing unlicensed chauffeur.

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29. Section 321.223 – License inspected.

30. Section 321.224 – Record kept.

31. Section 321.232 – Speed detection jamming devices; penalty.

32. Section 321.234A – All-terrain vehicles.

33. Section 321.235A – Electric personal assistive mobility devices.

34. Section 321.247 – Golf cart operation on City streets.

35. Section 321.257 – Official traffic control signal.

36. Section 321.259 – Unauthorized signs, signals or markings.

37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.

38. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.

39. Section 321.263 – Information and aid.

40. Section 321.264 – Striking unattended vehicle.

41. Section 321.265 – Striking fixtures upon a highway.

42. Section 321.266 – Reporting accidents.

43. Section 321.275 – Operation of motorcycles and motorized bicycles.

44. Section 321.276 – Use of electronic communication device while driving; text-messaging.

45. Section 321.277 – Reckless driving.

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49. Section 321.284 – Open container; drivers.

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88. Section 321.344B – Immediate safety threat; penalty.

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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.

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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.

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108. Section 321.387 – Rear lamps.

109. Section 321.388 – Illuminating plates.

110. Section 321.389 – Reflector requirement.

111. Section 321.390 – Reflector requirements.

112. Section 321.392 – Clearance and identification lights.

113. Section 321.393 – Color and mounting.

114. Section 321.394 – Lamp or flag on projecting load.

115. Section 321.395 – Lamps on parked vehicles.

116. Section 321.398 – Lamps on other vehicles and equipment.

117. Section 321.402 – Spot lamps.

118. Section 321.403 – Auxiliary driving lamps.

119. Section 321.404 – Signal lamps and signal devices.

120. Section 321.404A – Light-restricting devices prohibited.

121. Section 321.405 – Self-illumination.

122. Section 321.408 – Back-up lamps.

123. Section 321.409 – Mandatory lighting equipment.

124. Section 321.415 – Required usage of lighting devices.

125. Section 321.417 – Single-beam road-lighting equipment.

126. Section 321.418 – Alternate road-lighting equipment.

127. Section 321.419 – Number of driving lamps required or permitted.

128. Section 321.420 – Number of lamps lighted.

129. Section 321.421 – Special restrictions on lamps.

130. Section 321.422 – Red light in front.

131. Section 321.423 – Flashing lights.

132. Section 321.430 – Brake, hitch, and control requirements.

133. Section 321.431 – Performance ability.

134. Section 321.432 – Horns and warning devices.

135. Section 321.433 – Sirens, whistles, and bells prohibited.

136. Section 321.434 – Bicycle sirens or whistles.

137. Section 321.436 – Mufflers, prevention of noise.

138. Section 321.437 – Mirrors.

139. Section 321.438 – Windshields and windows.

140. Section 321.439 – Windshield wipers.

141. Section 321.440 – Restrictions as to tire equipment.

142. Section 321.441 – Metal tires prohibited.

143. Section 321.442 – Projections on wheels.

144. Section 321.444 – Safety glass.

145. Section 321.445 – Safety belts and safety harnesses; use required.

146. Section 321.446 – Child restraint devices.

147. Section 321.449 – Motor carrier safety regulations.

148. Section 321.449A – Rail crew transport drivers.

149. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

150. Section 321.450 – Hazardous materials transportation.

151. Section 321.454 – Width of vehicles.

152. Section 321.455 – Projecting loads on passenger vehicles.

153. Section 321.456 – Height of vehicles; permits.

154. Section 321.457 – Maximum length.

155. Section 321.458 – Loading beyond front.

156. Section 321.460 – Spilling loads on highways.

157. Section 321.461 – Trailers and towed vehicles.

158. Section 321.462 – Drawbars and safety chains.

159. Section 321.463 – Maximum gross weight.

160. Section 321.465 – Weighing vehicles and removal of excess.

161. Section 321.466 – Increased loading capacity; reregistration.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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# CHAPTER 63

# SPEED REGULATIONS


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


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

*(Code of Iowa, Sec. 321.285)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.290)*

1. Special 20 MPH Speed Zones. A speed in excess of 20 miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On all City streets except for the special 25 MPH streets.

2. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. Rhomberg Avenue.

   B. On Lansing-Harpers Road from Rhomberg Avenue to City limits.

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

*(Code of Iowa, Sec. 321.294)*

# CHAPTER 64

# TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

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

*(Code of Iowa, Sec. 321.311)*

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

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

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

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# CHAPTER 65

# STOP OR YIELD REQUIRED


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


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

*(Code of Iowa, Sec. 321.345)*

1. Chestnut Street. Vehicles traveling southeast on Chestnut Street shall stop at First Street.

2. Olive Street. Vehicles traveling southeast on Olive Street shall stop at First Street.

3. Orange Street. Vehicles traveling southeast on Orange Street shall stop at First Street.

4. Vine Street. Vehicles traveling southeast on Vine Street shall stop at First Street.

5. Second Street. Vehicles traveling on Second Street shall stop at Chestnut Street.

6. Third Street. Vehicles traveling on Third Street shall stop at Chestnut Street.

7. Fourth Street. Vehicles traveling on Fourth Street shall stop at Chestnut Street.

8. Greely Avenue. Vehicles traveling on Greely Avenue shall stop at Chestnut Street.

9. Orange Street. Vehicles traveling on Orange Street shall stop at Fourth Street.

10. Sunset Street. Vehicles traveling southwest on Sunset Street shall stop at Park Street.

11. Ripley Street. Vehicles traveling southwest on Ripley Street shall stop at Park Street.

12. Jefferson Avenue. Vehicles traveling southeast on Jefferson Avenue shall stop at Rhomberg Avenue.

13. Jefferson Avenue. Vehicles traveling southwest on Jefferson Avenue shall stop at Lansing-Harpers Road.

14. Cedar Street. Vehicles traveling on Cedar Street shall stop at Second Street.

15. Chestnut Street. Vehicles traveling northwest on Chestnut Street shall stop at Rhomberg Avenue.

16. Depot Street. Vehicles traveling on Depot Street shall stop at Greely Avenue.

17. Olive Street. Vehicles traveling on Olive Street shall stop at Second Street.

18. Olive Street. Vehicles traveling on Olive Street shall stop at Third Street.

19. Cedar Street. Vehicles traveling southeast on Cedar Street shall stop at First Street.

20. Sandy Point Road. Vehicles traveling northeast on Sandy Point Road shall stop at Cherry Street.

21. Marine Avenue. Vehicles traveling northeast on Marine Avenue shall stop at Jefferson Avenue.

22. Pelton Avenue. Vehicles traveling southwest on Pelton Avenue shall stop at Jefferson Avenue.

23. Second Street. Vehicles traveling on Second Street shall stop at Orange Street.

24. Chestnut Street. Vehicles traveling on Chestnut Street shall stop at Third Street.

25. First Street. Vehicles traveling on First Street shall stop at Chestnut Street.

26. Cherry Street. Vehicles traveling on Cherry Street shall stop at Second Street.

27. Second Street. Vehicles traveling on Second Street shall stop at Cherry Street Intersection.

**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)*

- NONE -

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

*(Code of Iowa, Sec. 321.345)*

1. Vine Street. Vehicles traveling southeast on Vine Street shall yield at Fourth Street.

2. Vine Street. Vehicles traveling northwest on Vine Street shall yield at Greely Avenue.

3. Vine Street. Vehicles traveling northwest on Vine Street shall yield at Second Street.

4. Third Street. Vehicles traveling on Third Street shall yield at Orange Street.

5. Cedar Street. Vehicles traveling on Cedar Street shall yield at Third Street.

6. Cedar Street. Vehicles traveling northwest on Cedar Street shall yield at Fourth Street.

7. Olive Street. Vehicles traveling on Olive Street shall yield at Fourth Street.

8. Olive Street. Vehicles traveling northwest on Olive Street shall yield at Greely Avenue.

9. Depot Street. Vehicles traveling southeast on Depot Street shall yield at Fourth Street.

10. Cherry Street. Vehicles traveling on Cherry Street shall yield at Second Street.

11. Cherry Street. Vehicles traveling on Cherry Street shall yield at Third Street.

12. Orange Street. Vehicles traveling on Orange Street shall yield at Greely Avenue.

13. Cook Street. Vehicles traveling on Cook Street shall yield at Sunset View Street.

14. Cook Street. Vehicles traveling on Cook Street shall yield at Ripley Street.

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

*(Code of Iowa, Sec. 321.249)*

- NONE -

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

*(Code of Iowa, Sec. 321.353)*

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

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

*(Code of Iowa, Sec. 321.327)*

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# CHAPTER 66

# LOAD AND WEIGHT RESTRICTIONS


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


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

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

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

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

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

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

- NONE -

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

*(Code of Iowa, Sec. 321.471)*

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

1. Truck Routes Designated. Every motor vehicle weighing five tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

*(Code of Iowa, Sec. 321.473)*

A. Greely Avenue, from Chestnut Street to Vine Street.

B. Chestnut Street from Rhomberg Avenue to First Street.

C. First Street North from Chestnut Street to Winfield Road.

D. Fourth Street from Chestnut Street to Vine Street.

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

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

# CHAPTER 67

# PEDESTRIANS


**67.01 Walking in Street**
**67.02 Hitchhiking**
**67.03 Pedestrian Crossing**


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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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# CHAPTER 68

# ONE-WAY TRAFFIC

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

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

- NONE -

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# CHAPTER 69

# PARKING REGULATIONS


**69.01 Park Adjacent to Curb**
**69.02 Parking on One-Way Streets**
**69.03 Angle Parking**
**69.04 Manner of Angle Parking**
**69.05 Parking for Certain Purposes Illegal**
**69.06 Parking Prohibited**
**69.07 Persons with Disabilities Parking**
**69.08 No Parking Zones**
**69.09 All Night Parking Prohibited**
**69.10 Snow Emergency**


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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. Chestnut Street, on the south side, from the intersection with Fourth Street west 120 feet.

2. Fourth Street, on the west side, from the intersection with Chestnut Street south 180 feet.

3. Fourth Street, on both the west and east sides, from the intersection with Chestnut Street north to the intersection with Olive Street.

4. Fourth Street, on the west side, from the intersection with Orange Street south 100 feet.

5. Third Street, on the west side, from the intersection with Chestnut Street north 300 feet.

6. Orange Street, on the north side, from the intersection with Third Street west to the intersection with Fourth Street.

7. Orange Street, on the south side, from the intersection with Fourth Street west to Greeley Avenue.

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

within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

*(Code of Iowa, Sec. 321.361)*

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

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

1. Sale. Displaying such vehicle for sale.

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

3. Advertising. Displaying advertising.

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

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

1. Crosswalk. On a crosswalk.
*(Code of Iowa, Sec. 321.358[5])*

2. Center Parkway. On the center parkway or dividing area of any divided street.
*(Code of Iowa, Sec. 321.236[1])*

3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
*(Code of Iowa, Sec. 321.236[1])*

4. Sidewalks. On or across a sidewalk.
*(Code of Iowa, Sec. 321.358[1])*

5. Driveway. In front of a public or private driveway.
*(Code of Iowa, Sec. 321.358[2])*

6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
*(Code of Iowa, Sec. 321.358[3])*

7. Fire Hydrant. Within five feet of a fire hydrant.
*(Code of Iowa, Sec. 321.358[4])*

8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
*(Code of Iowa, Sec. 321.358[6])*

9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
*(Code of Iowa, Sec. 321.358[8])*

10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.

*(Code of Iowa, Sec. 321.358[9])*

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

*(Code of Iowa, Sec. 321.358[10])*

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

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

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

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

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

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

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

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

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

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

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

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

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

**69.08 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. First Street on both sides from Vine Street to 300 feet north.

2. Cherry Street, on the south side, from 90 feet west of Sandy Point Road to the alley west of Third Street.

3. South First Street on the west side, from the sign to the intersection of Cedar Street.

4. Private driveway on North Fourth Street for residence located at 323 Chestnut Street.

5. Storage shed on North Fourth Street behind Barry's Mini Mart located at 403 Chestnut Street.

**69.09 ALL NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day.

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

- NONE -

**69.10 SNOW EMERGENCY.** No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation throughout the duration of the snow or ice storm and the 48-hour period after cessation of such storm except as above provided upon streets which have been fully opened. Such a ban shall be of uniform application and the Mayor is directed to publicize the requirements widely, using all available news media, in early November each year.

Where predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and shall inform the news media to publicize the proclamation and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

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# CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES


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


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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate; or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

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

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

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

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

**70.04 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.

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

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

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

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

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

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

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

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

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

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

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# CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES


**75.01 Purpose**
**75.02 Definitions**
**75.03 General Regulations**
**75.04 Operation of Snowmobiles**
**75.05 Operation of All-Terrain Vehicles**
**75.06 Negligence**
**75.07 Accident Reports**


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

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

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

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

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

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

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

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

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

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

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

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

4. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or

ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Hours of Operation. Registered snowmobiles may operate in the City at any hour.

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

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Liability Insurance. No person shall operate an ATV on City streets or any other City-owned property unless there is in effect for the ATV an owner's policy of liability insurance which is issued by an insurance carrier authorized to do business in Iowa to or for the benefit of the person named in the policy as insured and insuring the person named as insured and any person using the ATV with the express or implied permission of the named insured against loss from liability imposed by law for damages arising out of the ownership, maintenance, or use of an insured ATV in amounts not less than the minimum limits specified for motor vehicles in *Code of Iowa* Section 321A.21.

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

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

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

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

# CHAPTER 76

# BICYCLE REGULATIONS


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


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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.397)*

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

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

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

# CHAPTER 77

# GOLF CARTS


77.01 Purpose
77.02 Operation of Golf Carts Permitted
77.03 Prohibited Streets
77.04 Equipment
77.05 Hours
77.06 Traffic Laws Applicable
77.07 Liability Insurance
77.08 Registration
77.09 Violations
77.10 Golf Cart Dealers
77.11 Definition of Golf Cart


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

**77.02 OPERATION OF GOLF CARTS PERMITTED.** Subject to the prohibitions and restrictions set forth in this chapter, golf carts may be operated upon the streets and alleys of the City by persons possessing a valid driver's license. No person shall operate a golf cart upon the streets and alleys of the City unless said person possesses a valid driver's license.

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

**77.04 EQUIPMENT.** Golf carts operated upon City streets shall be equipped with a slow moving vehicle sign and a bicycle safety flag at all times during operation and shall be equipped with adequate brakes.

**77.05 HOURS.** Golf carts may be operated on and parked on City streets and alleys and other public rights-of-way only between sunrise and sunset.

**77.06 TRAFFIC LAWS APPLICABLE.** While being operated on City streets, golf carts are deemed to be motor vehicles subject to all provisions of this Code of Ordinances relating to the operation of motor vehicles, except as may be modified by this chapter.

**77.07 LIABILITY INSURANCE.** No person shall operate a golf cart on City streets and alleys unless there is in effect for the golf cart an owner's policy of liability insurance which is issued by an insurance carrier authorized to do business in Iowa to or for the benefit of the person named in the policy as insured and insuring the person named as insured and any person using the golf cart with the express or implied permission of the named insured against loss from liability imposed by law for damages arising out of the ownership, maintenance or use of an insured golf cart in amounts not less than the minimum limits specified for motor vehicles in Section 321A.21 of the *Code of Iowa*.

**77.08 REGISTRATION.** Except as provided in Section 77.10, no person shall operate a golf cart on any public street or alley unless the golf cart is currently registered with the City and displays current registration stickers as provided in this section:

1. The owner of a golf cart intended for use on any public street or alley shall complete and submit to the City Clerk a registration application on a form provided by

the City. The application shall include identifying information regarding the owner and the golf cart.

2. At the time of initial registration application, the owner shall submit proof of compliance with the liability insurance requirement of Section 77.07.

3. Upon approval of the registration application by the City Clerk and payment of the registration fee, the Clerk shall issue two adhesive registration stickers that the owner shall affix in prominent places on both the left and right sides of the golf cart.

4. The registration shall be annual, with a registration year extending from May 15 to the following May 14, at which time all current registrations shall expire. After initial registration, the Clerk shall issue annual renewal stickers to be affixed to the golf cart upon payment of the annual renewal fee.

5. The initial registration fee for each golf cart shall be $30.00, regardless of the date of registration, and the annual renewal fee shall be $20.00, provided that an additional $10.00 fee shall be charged in the event of any delinquent renewals.

***(Subsection 5 – Ord. 322 – May 20 Supp.)***

6. If a golf cart is sold, the registered owner shall inform the City Clerk and request cancellation of the registration for the golf cart. Any existing registration for a golf cart shall be deemed cancelled upon its sale. If the new owner intends to operate the golf cart on any City street or alley, the new owner shall register the golf cart and pay the initial registration fee as provided in this section.

**77.09 VIOLATIONS.** The operation of a golf cart in violation of any of the provisions of this chapter may be charged either against the operator of the golf cart or against the owner if the golf cart is operated with the consent of the owner. In the case of violations by the operator of a golf cart operating with the consent of the owner, the violation shall be charged against the owner only as a municipal infraction and the following civil penalties shall be applicable:

1. In the case of a first violation - $100.00.

2. For a second violation within one calendar year - $200.00.

3. In the event of a third violation within one calendar year - $300.00, and in addition, the Mayor shall revoke the registration of the golf cart and it shall not thereafter be registered in the City pursuant to this chapter.

Three violations committed by the registered owner within one calendar year shall also result in the revocation of any registration and prohibition of future registration, regardless of whether any of the violations were charged as municipal infractions.

**77.10 GOLF CART DEALERS.** Golf carts held as part of the inventory of a retail dealer in golf carts are exempt from the registration requirement set forth in Section 77.08 provided that all of the following requirements are satisfied:

1. The golf cart dealer has applied for and secured a dealer permit which shall be issued by the City Clerk upon written application and the payment of a $25.00 permit fee. Permits are valid for one year and may be renewed for additional years upon the payment of an annual fee of $25.00.

2. In order to secure a dealer permit the dealer must furnish proof of liability insurance covering all golf carts in the dealer's inventory as provided in Section 77.07 of this chapter.

3. The dealer must also show proof of the acquisition of a State sales tax permit.

4. Golf carts in the dealer's inventory may be operated without registration stickers as required in Section 77.08 for test drive purposes only and may be operated on all City streets. A copy of the dealer's permit must be maintained on or in each golf cart during test drives.

**77.11 DEFINITION OF GOLF CART.** As used in this chapter, "golf cart" means any motorized vehicle designed and manufactured for use primarily for transportation by participants in the game of golf and does not include all-terrain vehicles (ATVs) nor utility off-road vehicles (UTVs) as defined in Iowa Code Section 321I.31 which are subject to certificate of title requirements under Iowa Code Section 321I.31. ***(Ord. 322 – May 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 Notification in Newspaper**
**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] & Sec. 321.90)*

1. "Abandoned vehicle" means any of the following:

   A. A vehicle that has been left unattended on public property for more than 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

   B. A vehicle that has remained illegally on public property for more than 24 hours.

   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.

   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.

   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

   F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa State Patrol or any law enforcement agency of a county or city.

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

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

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

**80.03 NOTICE BY MAIL.** The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 20 days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within 10 days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 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. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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# CHAPTER 81

# RAILROAD REGULATIONS


**81.01 Definitions**
**81.02 Obstructing Streets**
**81.03 Crossing Maintenance**
**81.04 Speed**


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

1. "Operator" means any individual, partnership, corporation or other association that owns, operates, drives, or controls a railroad train.

2. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

*(Code of Iowa, Sec. 321.1)*

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

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

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.

2. Avoid Striking. When necessary to avoid striking any object or person on the track.

3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

5. In Motion. When the train is in motion except while engaged in switching operations.

6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

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

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

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

*(Code of Iowa, Sec. 364.11)*

**81.04 SPEED.** It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than 15 miles per hour.

*(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])*

[The next page is 375]

## CHAPTER 90

# WATER SERVICE SYSTEM

*(Reserved for Future Use)*

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# CHAPTER 95

# SANITARY SEWER SYSTEM


**95.01 Purpose**
**95.02 Definitions**
**95.03 Superintendent**
**95.04 Prohibited Acts**
**95.05 Sewer Connection Required**
**95.06 Service Outside the City**
**95.07 Right of Entry**
**95.08 Use of Easements**
**95.09 Special Penalties**


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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

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

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

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

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

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

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

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

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

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

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

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

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

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

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

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

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

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

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

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

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

7. Restricted Discharge. Discharge any sanitary sewage to the sewage system except from the inside of a building or other structure through the building drain.

8. Building Drain Capping. Cap a building drain unless approved in advance and inspected after capping by the Superintendent.

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 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 Application Fee and Connection Charge**
**96.03 Plumber Required**
**96.04 Excavations**
**96.05 Connection Requirements**
**96.06 Interceptors Required**
**96.07 Sewer Tap**
**96.08 Inspection Required**
**96.09 Property Owner's Responsibility**
**96.10 Abatement of Violations**


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

**96.02 APPLICATION FEE AND CONNECTION CHARGE.** The person who makes the application shall pay a fee in the amount of $50.00 for a residential or commercial permit and $500.00 for an industrial permit to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of $50.00 paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

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

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

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

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

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches. No building sewer for a commercial building or a multiple dwelling shall be less than six inches in diameter. Up to two mobile homes in a mobile home park may be connected to a four-inch diameter building sewer, and up to six mobile homes may be connected to a six-inch diameter building sewer.

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

A. Recommended grade at one-fourth inch per foot.

B. Minimum grade of one-eighth inch per foot.

C. Minimum velocity of two feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

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

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

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

A. Clay sewer pipe – 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 feet of any bearing wall that might thereby be weakened.

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

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

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

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

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

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "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 and attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

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

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer through and from each owner's premises to the point of connection with the public sewer, including that portion of the building sewer located within any public right-of-way and including the installation and functioning of devices to prevent the backing up of sewage and waste water, are the sole responsibility of the owner of the premises served by the building sewer. All leaks or other malfunctions in such building sewer shall be repaired within 48 hours of discovery, weather permitting, at the owner's expense. If not repaired within 48 hours of discovery, weather permitting, the Superintendent may cause such repairs to be made and the expense charged to the user on the next sewer bill. Such repair charges shall be deemed charges within the meaning of the Code of Iowa, Section 384.84, and if not timely paid, may be certified to the County Treasurer and collected in the same manner as taxes.

shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

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

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

# CHAPTER 97

# USE OF PUBLIC SEWERS


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


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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow.

   A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials that exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

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

# CHAPTER 98

# ON-SITE WASTEWATER SYSTEMS


**98.01 When Prohibited**
**98.02 When Required**
**98.03 Compliance with Regulations**
**98.04 Permit Required**
**98.05 Discharge Restrictions**
**98.06 Maintenance of System**
**98.07 Systems Abandoned**
**98.08 Disposal of Septage**
**98.09 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 15,000 square feet.

# CHAPTER 99

# SEWER SERVICE CHARGES


**99.01 Sewer Service Charges Required**
**99.02 Special Rates**
**99.03 Billing for Sewer Service**
**99.04 Service Discontinued**
**99.05 Lien for Nonpayment**
**99.06 Lien Exemption**
**99.07 Lien Notice**
**99.08 Special Agreements Permitted**


**99.01 SEWER SERVICE CHARGES REQUIRED.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. A quarterly service fee of $50.00 shall be charged for each individual dwelling, including apartments and condominium units, and each business and industrial premises. ***(Ord. 321 – May 20 Supp.)***

2. The monthly service fee shall be charged for each dwelling and premises that is connected to the public sewer system regardless of any temporary, seasonal or long-term vacancy. Except in the case of mobile homes in mobile home parks, such charges shall cease only if the building sewer serving the dwelling or premises is permanently disconnected at the point of intersection with the public sewer. In the case of mobile home parks, the service fee shall abate for each rental lot for periods when no mobile home is present.

3. In the case of new dwellings or business or industrial premises, the monthly service fee shall be charged beginning on the date of official notice to connect as provided in Section 95.05.

4. In the case of mobile home parks and short-term or seasonal rental units, the monthly service fees shall be billed to the landlord who shall be responsible for payment.

5. In the case of condominium developments governed by Chapter 499B of the *Code of Iowa*, the monthly service fees for all condominium units or apartments, as well as any structures connected to the public sewer system that are part of the common elements of the condominium development, shall be billed to the governing body of the condominium development which shall be responsible for payment.

6. Customers outside the City limits shall pay a monthly service fee of one and one-half times the fee in subsection 1.

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

*(Code of Iowa, Sec. 384.84)*

**99.03 BILLING FOR SEWER SERVICE.** Sewer service shall be billed as part of a combined service account, payable in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Quarterly Billing. Combined service accounts are billed in accordance with the following quarterly schedule:

First Quarter — January, February and March;

Second Quarter — April, May and June

Third Quarter — July, August and September

Fourth Quarter — October, November and December.

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

3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the tenth of the second month of each quarter.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of 10 percent of the amount due shall be added to each delinquent bill.

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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail at least 20 days prior to the intended service discontinuance date and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested within 10 days after notice of the proposed disconnection, the Council shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. If the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. Fees. A fee of $100.00 shall be charged before service is restored to a delinquent customer.

**99.05 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. In the case of condominium units, any lien imposed under this section shall be imposed only against the individual units and the general common elements and limited common elements appurtenant to such units, and the owners of separate condominium units may remove their unit and common elements interests from the lien by

payment of the fractional or proportional amount attributable to such unit, all as provided by Section 499B.12 of the *Code of Iowa.*

*(Code of Iowa, Sec. 384.84)*

**99.06 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

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

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

3. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsection 1 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.

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

*(Code of Iowa, Sec. 384.84)*

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

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

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# CHAPTER 105

# SOLID WASTE CONTROL


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


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

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

1. "Collector" means any person authorized to gather solid waste from public and private places.

2. "Discard" means to place, cause to be placed, throw, deposit, or drop.
*(Code of Iowa, Sec. 455B.361[1])*

3. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.

4. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
*(IAC, 567-100.2)*

5. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
*(IAC, 567-20.2[455B])*

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

7. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

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

*(IAC, 567-100.2)*

9. "Residential premises" means a single-family dwelling, including mobile homes.

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

*(IAC, 567-20.2[455B])*

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

*(IAC, 567-100.2)*

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

*(IAC, 567-100.2)*

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

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

14. "Seasonal mobile home" means any mobile home used seven months or less per year.

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

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

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

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

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

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

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

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

*(Code of Iowa, Ch. 657)*

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(IAC, 567-100.2)*
*(IAC, 567-102.13[2] and 400-27.14[2])*

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

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

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than 30 gallons in nominal capacity, and shall be leak-proof and waterproof. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

(1) Be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container.

(2) Have handles, bails, or other suitable lifting devices or features.

(3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying.

(4) Be of lightweight and sturdy construction.

B. Galvanized metal containers, rubber or fiberglass containers, and plastic containers that do not become brittle in cold weather may be used.

C. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

**105.10 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse

is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

5. Attendance. All burning material shall be constantly attended by a person who shall take responsibility of the burning.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The Waste Management of LaCrosse, Wisconsin, facilities are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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# CHAPTER 106

# COLLECTION OF SOLID WASTE


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


**106.01 COLLECTION SERVICE.** The City shall provide by contract for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

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

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 CONTRACT REQUIREMENTS.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

**106.08 COLLECTION FEES.** The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:

A. For each residential premises other than mobile homes and manufactured homes (as defined in Chapter 146) located in a mobile home park or a manufactured home community – $31.50 per quarter.

B. For each mobile home and manufactured home located in a mobile home park or manufactured home community – $81 per year.

***(Subsection 1 – Ord. 320 – May 20 Supp.)***

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 99.03 of this Code of Ordinances. The provisions contained in Section 99.07 relating to lien notices shall also apply in the event of a delinquent account.

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

*(Code of Iowa, Sec. 384.84)*

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# CHAPTER 107

# RECYCLING


**107.01 Purpose**
**107.02 Administration**
**107.03 Definitions**
**107.04 Separation of Recyclable Materials**
**107.05 Separation Requirements Exempted**
**107.06 Care of Separated Recyclable Materials**
**107.07 Disposal of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste**
**107.08 Preparation and Collection of Recyclable Materials**
**107.09 Responsibilities of Owners or Agents of Multi-Family Dwellings**
**107.10 Responsibilities of Owners or Agents of Nonresidential Facilities and Properties**
**107.11 Prohibitions on Disposal of Recyclable Materials**
**107.12 Enforcement**
**107.13 Interpretation**


**107.01 PURPOSE.** The purpose of this chapter is to promote recycling, composting, and resource recovery through the administration of an effective recycling program in compliance with the laws of the State of Wisconsin. The provisions of this chapter shall be interpreted in light of the applicable recycling statutes of the State of Wisconsin, and the requirements herein apply to all persons within the City, and all other parties utilizing the solid waste collection service contracted by the City.

**107.02 ADMINISTRATION.** The provisions of this chapter shall be administered by the Clerk or any other City official designated by the Mayor and approved by the Council.

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

1. "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

2. "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.

3. "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

   A. Is designed for serving food or beverages.

   B. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

   C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

4. "HDPE" means high density polyethylene, labeled by the SPI Code #2.

5. "LDPE" means low density polyethylene, labeled by the SPI Code #4.

6. "Magazines" means magazines and other materials printed on similar paper.

7. "Major appliances" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.

8. "Multiple-family dwelling" means a property containing five or more residential units including those which are occupied seasonally.

9. "Newspaper" means a newspaper and other materials printed on newsprint.

10. "Nonresidential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

11. "Office paper" means high grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

12. "Other resins or multiple resins" means plastic resins labeled by the SPI Code #7.

13. "Person" includes any individual, corporation, partnership, association, local governmental unit, state agency or authority or federal agency.

14. "PETE" means polyethylene terephthalate, labeled by the SPI Code #1.

15. "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

16. "Post-consumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, (as defined in Section 144.61(5), Wisconsin Statutes), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste (as defined in Section 144.44(7)(a)l, Wisconsin Statutes).

17. "PP" means polypropylene, labeled by the SPI Code #5.

18. "PS" means polystyrene, labeled by the SPI Code #6.

19. "PVC" means polyvinyl chloride, labeled by the SPI Code #3.

20. "Recyclable materials" includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires and bi-metal containers.

21. "Solid waste" has the meaning specified in Section 144.01(15), Wisconsin Statutes.

22. "Solid waste facility" has the meaning specified in Section 144.43(5), Wisconsin Statutes.

23. "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

24. "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

25. "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

**107.04 SEPARATION OF RECYCLABLE MATERIALS.** Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from post-consumer waste:

1. Lead acid batteries
2. Major appliances
3. Waste oil
4. Yard waste
5. Aluminum containers
6. Bi-metal container
7. Corrugated paper or other container board
8. Foam polystyrene packaging
9. Glass containers
10. Magazines
11. Newspaper
12. Office paper
13. Rigid plastic containers made of PETE, HOPE, PVC, LDPE, PP, PS, and other resins or multiple resins
14. Steel containers
15. Waste tires

**107.05 SEPARATION REQUIREMENTS EXEMPTED.** The separation requirements of Section 107.04 do not apply to the following:

1. Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 107.04 from solid waste in as pure a form as is technically feasible.

2. Solid waste which is burned as a supplemental fuel at a facility if less than 30 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

3. A recyclable material specified in Section 107.04(5) through (15) for which a variance has been granted by the Wisconsin Department of Natural Resources under Section 159.11(2m), Wisconsin Statutes, or Section NR 544.14, Wisconsin Administrative Code.

**107.06 CARE OF SEPARATED RECYCLABLE MATERIALS.** To the greatest extent practicable, the recyclable materials separated in accordance with Section 107.04 shall be clean and kept free of contaminants such as food or product residue, oil or grease or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

**107.07 DISPOSAL OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL AND YARD WASTE.** Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil and yard waste as follows:

1. Lead acid batteries shall be separated from all other solid waste and shall be held for collection by the contractor retained by the City and disposed of by such contractor in compliance with the provisions of Wisconsin Statutes and the *Code of Iowa*.

2. Major appliances shall be separated from all other solid waste and shall be held for collection by the contractor retained by the City and disposed of by such contractor in compliance with provisions of Wisconsin Statutes and the *Code of Iowa*.

3. Waste oil shall be separated from all other solid waste and shall be held for collection by the contractor retained by the City and disposed of by such contractor in compliance with provisions of Wisconsin Statutes and the *Code of Iowa*.

4. Yard waste shall be separated from all other solid waste and shall be burned or composted on the premises or held for collection by the contractor retained by the City and disposed of by such contractor in compliance with the provisions of Wisconsin Statutes and the *Code of Iowa*.

**107.08 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS.** Except as otherwise directed by the contractor, occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the recyclable materials specified in Section 107.04 (5) through (15):

1. Aluminum containers shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

2. Bi-metal containers shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

3. Corrugated paper or other container board shall be wrapped or bound and set out for collection by the contractor retained by the City.

4. Foam polystyrene packaging shall be placed in suitable containers and set out for collection by the contractor retained by the City.

5. Glass containers shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

6. Magazines shall be wrapped or bound and set out for collection by the contractor retained by the City.

7. Newspaper shall be wrapped or bound and set out for collection by the contractor retained by the City.

8. Office paper shall be wrapped or bound and set out for collection by the contractor retained by the City.

9. Rigid plastic containers shall be prepared and collected as follows:

A. Plastic containers made of PETE shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

B. Plastic containers made of HDPE shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

C. Plastic containers made of PVC shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

D. Plastic containers made of LDPE shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

E. Plastic containers made of PP shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

F. Plastic containers made of PS shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

G. Plastic containers made of other resin or multiple resins shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

10. Steel containers shall be cleaned and separated from other solid waste and set out for collection by the contractor retained by the City.

**107.09 RESPONSIBILITIES OF OWNERS OR AGENTS OF MULTIPLE-FAMILY DWELLINGS.** Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section 107.04(5) through (15):

1. Provide adequate, separate containers for the recyclable materials.

2. Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.

3. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

The requirements of this section do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 107.04(5) through (15) from solid waste in as pure a form as is technically feasible.

**107.10 RESPONSIBILITIES OF OWNERS OR AGENTS OF NONRESIDENTIAL FACILITIES AND PROPERTIES.** Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in Section 107.04(5) through (15):

1. Provide adequate, separate containers for the recyclable materials.

2. Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.

3. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

The requirements of this section do not apply to the owners or designated agents of nonresidential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 107.04(5) through (15) from solid waste in as pure a form as is technically feasible.

**107.11 PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS.** No person may dispose of in a solid waste disposal facility or bum in a solid waste treatment facility any of the materials specified in Section 107.04 (5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**107.12 ENFORCEMENT.**

1. For the purpose of ascertaining compliance with the provisions of this chapter, any authorized officer, employee or representative of any firm retained by the City for the collection of solid waste may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to recycling activities which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any such authorized officer, employee or authorized representative who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.

2. Any person who violates a provision of this chapter may be issued a citation by the City Attorney or any other official designated by the Mayor and approved by the Council. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceedings under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.

**107.13 INTERPRETATION.** In their interpretation and application the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wisconsin Administrative Code, and where the chapter provision is unclear, the provisions shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of the ordinance codified in this chapter or in effect on the date of the most recent text amendment of this chapter.

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# CHAPTER 110

# ELECTRIC FRANCHISE


**110.01 Franchise Granted**
**110.02 Grant of Right-of-Way**
**110.03 Indemnification**
**110.04 Noninterference; Restoration of Property**
**110.05 Moving Buildings**
**110.06 Service Extension**
**110.07 Generation Facility Exclusion**


**110.01 FRANCHISE GRANTED.** There is hereby granted unto Allamakee-Clayton Electric Cooperative, Inc., an incorporated cooperative association organized under the laws of the State of Iowa (hereinafter referred to as the "Grantee"), its successors and assigns, the right, permission, privilege and franchise, for a period of 20 years from and after the taking effect of the ordinance codified in this chapter,[†] subject only to the laws of the State of Iowa as now in force or as may hereafter be in force, and to the conditions and limitations hereinafter contained, to erect, install, construct, reconstruct, repair, own, operate, maintain, manage and control an electric light, heat and power plant and an electric distribution system consisting of poles, wires, conduits, pipes, conductors, anchors, guy wires, and all appurtenances thereto, within the limits of the City, necessary, convenient or proper for the production, transmission, distribution and delivery of electricity for light, heat and power purposes to said City and its inhabitants.

**110.02 GRANT OF RIGHT-OF-WAY.** The Grantee, its successors and assigns are hereby granted the right-of-way in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City for the purpose of erecting, installing, constructing, reconstructing, repairing, owning, operating and maintaining, managing and controlling said electric light, heat and power plant and said electric distribution system.

**110.03 INDEMNIFICATION.** The Grantee shall hold the City free and harmless of and from any and all liability, damages, actions and causes of action, caused by or through the neglect or mismanagement of the Grantee in the erection, installation, construction, reconstruction, repair, operation, maintenance, management or control of said electric plant and distribution system.

**110.04 NONINTERFERENCE; RESTORATION OF PROPERTY.** The Grantee shall not, during the erection, installation, construction, reconstruction, repairing, operation and maintenance of said plant or distribution system, unnecessarily hinder public travel on the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City, and shall leave all of said streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of said City upon which it may enter for the purposes herein authorized, in as good condition as they were at the date of entry.

**110.05 MOVING BUILDINGS.** Any person desiring to move any building or other thing in, over, along or across any of the streets, lanes, avenues, sidewalks, alleys, bridges or public grounds of the City, whereby the poles, wires, conduits or other fixtures of said Grantee, or their use, shall or may be interfered with, shall make written application therefor to the City, specifying in such application the building or thing to be moved, the proposed route to be

[†] **EDITOR'S NOTE:** Ordinance No. 217 adopting an electric franchise for the City, was passed and adopted on August 10, 1999.

followed and the date for such moving which shall not be less than seven days from the presentation of said application. If said application shall be granted, the City shall give said Grantee notice thereof at least five days prior to the date of said moving and said Grantee shall thereupon, but at the expense of said applicant, temporarily remove such poles, wires, conduits, pipes, conductors or other fixtures as may be necessary to allow the passage of said building or other thing for a reasonable length of time not exceeding four hours in any one day and between the hours of 8:00 a.m. and 3:00 p.m.; provided, however, that said Grantee shall not be required to remove any such poles, wires, conduits, pipes, conductors or other fixtures until said applicant shall have given satisfactory assurance of said Grantee, covering the entire cost of the removal and replacement of such poles, wires, conduits, pipes, conductors and other fixtures and any and all damage, liability, action or cause of action resulting therefrom.

**110.06 SERVICE EXTENSION.** The City, by resolution of the Council, may, upon the written demand of any person whose dwelling or place of business, located within the City, shall have been wired for electric service, according to the wiring specifications required by the Grantee, require said Grantee to extend its said electric distribution system as to furnish electric energy to said person, provided that said person demanding such service shall enter into the customary written contract with said Grantee for the purpose of electric energy for a period of not less than one year from the date service is made available by the Grantee.

**110.07 GENERATION FACILITY EXCLUSION.** For the purposes of this chapter and franchise, the term "electric light, heat and power plant" shall not be defined to include a generation facility.

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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**
**120.07 Music and Noise Restrictions**


**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122 & 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 & 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may

sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49[2b] & 123.150)*

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages or consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[21])*

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

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

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

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

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

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

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

**120.07 MUSIC AND NOISE RESTRICTIONS.**

1. It is unlawful for any person to whom an Iowa liquor control license, wine permit or beer permit has been issued, or the person's agents or employees, to sponsor or knowingly permit the playing of music or the conduct of any other loud form of entertainment or activity in any portion of the licensed or permitted premises not fully enclosed with permanent walls and ceiling except as provided in this section.

2. Each such licensed or permitted premises may sponsor, permit or conduct an outdoor music, entertainment or other activity generating any significant amount of noise on the licensed or permitted premises only pursuant to a permit issued by the City. Permit requests shall be in writing and shall describe the activity for which the permit is requested, the date, start time and end time, and the location. Each permit request shall be accompanied by a $10.00 permit fee, which fee shall be refunded in the event the request is denied. Any such request must be received by the City five business days before such event and will be granted as long as the permit requester continues to remain in good standing by abiding by the requirements.

3. Permits may be issued only for events to be held on weekends and/or holidays.

4. Any permit issued shall include a permit number and state the start time and end time of the event. The end time cannot be later than midnight on the day for which it is issued, and such outdoor music, entertainment or other activity must terminate at

that time. The permit must be displayed for three days prior to the event in an external window on the licensed or permitted premises where it can be seen by the public.

5. The volume level of the music or the conduct of any other loud form of entertainment or activity shall be controlled so as not to become a nuisance to neighbors.

# CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS


**121.01 Definitions**
**121.02 Permit Required**
**121.03 Application**
**121.04 Fees**
**121.05 Issuance and Expiration**
**121.06 Refunds**
**121.07 Persons Under Legal Age**
**121.08 Self-Service Sales Prohibited**
**121.09 Permit Revocation**


**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:
*(Code of Iowa, Sec. 453A.1)*

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.

3. "Place of business" means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.

4. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

5. "Self-service display" means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

6. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. "Vapor product" includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

**121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

| FOR PERMITS GRANTED DURING: | FEE: |
|---|---|
| July, August or September | $ 75.00 |
| October, November or December | $ 56.25 |
| January, February or March | $ 37.50 |
| April, May or June | $ 18.75 |

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 & 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of $300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 60 days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

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# CHAPTER 122

# PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS


**122.01 Purpose**
**122.02 Definitions**
**122.03 License Required**
**122.04 Application for License**
**122.05 License Fees**
**122.06 Bond Required**
**122.07 License Issued**
**122.08 Display of License**
**122.09 License Not Transferable**
**122.10 Time Restriction**
**122.11 Revocation of License**
**122.12 Hearing**
**122.13 Record and Determination**
**122.14 Appeal**
**122.15 Effect of Revocation**
**122.16 Rebates**
**122.17 License Exemptions**
**122.18 Charitable and Nonprofit Organizations**


**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of $5.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of $10.00 per year.

2. Peddlers or Transient Merchants.

A. For one day.....$ 5.00

B. For one week.....$ 10.00

C. For up to six months.....$ 20.00

D. For one year or major part thereof.....$ 25.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

**122.11 REVOCATION OF LICENSE.** Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

**122.12 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.13 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.14 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.15 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.16 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least $5.00 of the original fee shall be retained by the City to cover administrative costs.

**122.17 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the Allamakee School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption,

the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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# CHAPTER 135

# STREET USE AND MAINTENANCE


135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Property Owner's Responsibility for Maintenance
135.11 Failure to Maintain
135.12 Dumping of Snow


**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of $1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of $1,000.00 may be filed with the City.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

   A. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.

   B. Property Damage - $50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to

finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. A permit fee of $10.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

**135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

**135.11 FAILURE TO MAINTAIN.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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# CHAPTER 136

# SIDEWALK REGULATIONS


136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice, and Accumulations
136.04 Property Owner's Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
136.10 Failure to Repair or Barricade
136.11 Interference with Sidewalk Improvements
136.12 Awnings
136.13 Encroaching Steps
136.14 Openings and Enclosures
136.15 Fires or Fuel on Sidewalks
136.16 Defacing
136.17 Debris on Sidewalks
136.18 Merchandise Display
136.19 Sales Stands


**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

5. "Portland cement" means any type of cement except bituminous cement.

6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

**136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

   A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.

   B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.

   C. Driveway areas shall be not less than six inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) within one foot of the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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# CHAPTER 137

# VACATION AND DISPOSAL OF STREETS


**137.01 Power to Vacate**
**137.02 Notice of Vacation Hearing**
**137.03 Findings Required**
**137.04 Disposal of Vacated Streets or Alleys**
**137.05 Disposal by Gift Limited**


**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 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.

**137.03 FINDINGS REQUIRED.** No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.04 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

*(Code of Iowa, Sec. 364.7)*

**137.05 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**

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

| ORDINANCE NO. | ADOPTED | ORDINANCE NO. | ADOPTED |
|---|---|---|---|
| 200 | March 12, 1996 | | |
| 202 | June 25,1996 | | |
| 203 | August 13, 1996 | | |
| 210 | October 14,1997 | | |
| 213 | April 16,1998 | | |
| 214 | May 11,1999 | | |
| 215 | June 8, 1999 | | |
| 216 | July 15, 1999 | | |
| 218 | October 12, 1999 | | |
| 220 | February 8, 2000 | | |
| 229 | January 12, 2001 | | |
| 232 | June 12, 2001 | | |
| 233 | August 14, 2001 | | |
| 234 | October 10, 2001 | | |
| 235 | October 10, 2001 | | |
| 242 | October 11, 2004 | | |
| 245 | August 8, 2005 | | |
| 253 | March 12, 2007 | | |
| 256 | June 11, 2007 | | |
| 283 | June 11, 2012 | | |
| 306 | May 8, 2017 | | |
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# CHAPTER 138

# STREET GRADES

138.01 Established Grades
138.02 Record Maintained

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

**EDITOR'S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

| ORDINANCE NO. | ADOPTED | ORDINANCE NO. | ADOPTED |
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# CHAPTER 139

# NAMING OF STREETS


139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map
139.06 Establishment and Dedication of Streets


**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.

**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 Harpers Ferry, 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.

**139.06 ESTABLISHMENT AND DEDICATION OF STREETS.** The following ordinances have hereby been adopted by the City establishing and dedicating streets for public use within the City.

**EDITOR'S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing and dedicating streets and remain in full force and effect.

| ORDINANCE NO. | ADOPTED | ORDINANCE NO. | ADOPTED |
|---|---|---|---|
| 317 | June 14, 2019 | | |
| 318 | June 24, 2019 | | |
| 319 | July 8, 2019 | | |
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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 that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

**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 HARPERS FERRY, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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# CHAPTER 146

# MANUFACTURED AND MOBILE HOMES


**146.01 Definitions**
**146.02 Conversion to Real Property**
**146.03 Foundation Requirements**
**146.04 Skirting Requirements**


**146.01 DEFINITIONS.** For use in this chapter the following terms are defined:
*(Code of Iowa, Sec. 435.1)*

1. "Manufactured home" means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity's own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:
*(Code of Iowa, Sec. 435.26 & 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 that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community, mobile home park or seasonal trailer park shall be placed on a permanent foundation as defined in Section 155.05 of this Code of Ordinances. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures.

**146.04 SKIRTING REQUIREMENTS.**

1. Except as provided in Subsections 2 and 3 of this section, the owner of every manufactured home or mobile home located within any mobile home park or manufactured home community shall install and maintain skirting to cover any gap between the base of the home and the ground below. The skirting may be constructed of any suitable material provided it is installed and maintained in such a manner as to prevent access by rodents to the area beneath the home. In the case of manufactured or mobile homes brought into the City for the first time, a violation of this section shall not be deemed to exist unless the owner fails to install the required skirting within 30 days from the date the home is placed in a mobile home park or manufactured home community.

2. Subsection 1 shall not be applicable to any manufactured home or mobile home under which lattice skirting is in place as of June 19, 2004, until such times as the lattice skirting requires repair or replacement, whereupon subsection 1 of this section shall become fully applicable. The Clerk shall maintain a record of those mobile homes that are exempt under this exception.

3. Subsection 1 shall not be applicable to any manufactured home or mobile home located east of First Street.

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# CHAPTER 147

# MOBILE HOME PARK REGULATIONS


147.01 Definitions
147.02 Mobile Home Park Permits
147.03 Minimum Performance Standards
147.04 Variances


**147.01 DEFINITIONS.** As used in this chapter, except when the context clearly indicates otherwise, the following definitions shall apply:

1. "Lot" means the parcel or area designated by the mobile home park owner for the placement of a mobile home and the exclusive use of its occupants.

2. "Mobile home park" means any lot, group of lots or other contiguous tract of land under common ownership or legal control upon which two or more mobile homes, manufactured homes (as defined in Chapter 146) or combinations of any such homes are located for the purpose of year-round or seasonal occupancy, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by an individual, educational institution or company on such person's own premises and used exclusively to house such person's own employees or students. All such parks shall meet the minimum performance standards of this chapter.

3. "Mobile home parks in existence on the effective date of this chapter" means mobile home parks in existence on November 2018, which are identified as follows:

Browns Riverside Court & Marina
CAAT, LLC – Todd Warnke
Country Court
Delphey's Marina, Inc. Trailer Court
Downing Rentals, LLC
Ehlers Trailer Court
Federspiel Court
First Street Retreat
Holm's Trailer Court
Lensing Court
Martelle's Trailer Court #1
Martelle's Trailer Court #2
Pearson's #1 – Al and Pat Grimes
Pearson's #2 – Norman Delphey
Ripley Trailer Court
Stilwell Court
Trackside Court

**147.02 MOBILE HOME PARK PERMITS.**

1. Except as provided in subsection 4 of this section, it is unlawful for any person to establish, operate or enlarge a mobile home park without a permit for such activity issued by the Clerk in writing, following approval by the Council.

2. Application for a permit to establish, operate or enlarge a mobile home park shall be made on a form supplied by the City. It shall be accompanied by a $10.00 application fee which shall be refunded if the permit is not issued. The application shall be made by the owner of the premises upon which the park or proposed park is or will be operated. Such application shall be acted on within 60 days of receipt by the Clerk. An application shall be granted and a permit issued if the park, proposed park or enlarged park will conform to the minimum performance standards of this chapter, has access to the public sanitary sewer, and would not significantly enhance the danger of

the spread of fire, hinder access for firefighting and emergency vehicles, or jeopardize safety of travel within the public streets. In considering a permit application, the Council may consider the opinions of neighboring property owners or occupants but the same shall not be determinative. The Council may impose upon the issuance of the permit any conditions reasonably related to the public health, safety and welfare. A permit issued under this section may be transferred to a subsequent owner of the park but the subsequent owner shall report, in writing, the transfer to the Clerk within 60 days.

3. The Council, following notice and an opportunity for hearing, may revoke any permit issued under this section upon a finding that the permit holder has failed to observe the minimum performance standards of this chapter, failed to observe the conditions imposed upon the issuance of the permit, or otherwise committed any violation of this chapter. Any such violations may also be punished the same as any violations of this Code of Ordinances.

4. Mobile home parks in existence on the effective date of this chapter shall be exempt from the requirement of a permit to operate such parks and from the minimum performance standards, except that the minimum performance standards set forth in subsections 8, 9, 10, 11, 12, 13 and 14 of Section 147.03 shall be applicable to all mobile home parks, unless such exemptions are revoked as hereafter provided. However, no mobile home park in existence on the effective date of this chapter may be enlarged without a permit issued pursuant to this section. In the event any mobile home park in existence on the effective date of this chapter ceases to operate for a period of 12 consecutive months or more, a mobile home park shall not be reestablished on the same premises without a permit issued pursuant to this section and, in that event, all of the minimum performance standards shall be applicable. In the event of violations of the applicable minimum performance standards for mobile home parks in existence on the effective date of this chapter, the Council, following notice and an opportunity for hearing, may revoke such exemptions. In the event the exemptions are revoked, the mobile home park shall be ineligible for a mobile home park permit.

**147.03 MINIMUM PERFORMANCE STANDARDS.** Except as otherwise provided in this chapter, mobile home parks shall conform to the following minimum performance standards:

1. Minimum Land Area: 21,600 square feet of contiguous land under common ownership or legal control.

2. Minimum Number of Units: two mobile homes.

3. Minimum Lot Size Per Unit: 2,400 square feet per unit so as to provide adequate space for parking, for utility access and maintenance, to prevent the spread of fire and impact of explosion and to provide adequate access for firefighting and other emergency purposes.

4. Spacing: A mobile home unit is not to be located closer than:

A. 15 feet from the side of another unit;

B. 10 feet from the end of another unit;

C. 15 feet from the right-of-way line of a public street, whether open or not;

D. 7 feet from the right-of-way line of a public alley, whether open or not;

E. 5 feet from the boundary of a mobile home park.

In no case shall be spacing requirements create a lot size smaller than 2,400 square feet. Distances shall be measured from the outer-most extension of any built-on additions, such as steps, vestibules or decks.

5. Width of Street or Drive Within Mobile Home Parks: minimum of 22 feet wide.

6. Parking: at least one off-street parking space per mobile home unit.

7. Sanitary Sewer Service: Each mobile home unit shall be connected to the municipal sanitary sewer system.

8. Waste Storage and Collection: Each mobile home unit shall maintain a secure, watertight container of at least 20 gallons in volume to place household waste, and shall arrange to have such waste collected. As an alternative, a mobile home park owner may provide centralized collection and disposal of waste generated by mobile home park tenants.

9. Public Street Access. Every mobile home park shall have access to and from an open and traveled public street.

10. Campers. No person shall place or park a camper, as defined in Section 155.09 of this Code of Ordinances, on any lot except temporary parking not in excess of 48 consecutive hours.

11. Recreational Vehicles. No person shall place or park a recreational vehicle, as defined in Section 155.09 of this Code of Ordinances, on any lot except: (i) in compliance with the spacing requirements applicable to the mobile home on such lot as provided in subsection 4 of this section; or (ii) temporary parking not in excess of 48 consecutive hours.

12. Plot Plan. The owner of every mobile home park shall submit a plot plan to the Clerk showing each designated lot in the park, the dimensions of each lot, the boundaries of any owner-occupied lots within the park boundary, the name or names of the tenants occupying each lot, and location of all sewer lines, wells, and water lines. The plot plan shall be drawn to a scale adequate to show all the features required above. A plot plan includes the position of all mobile homes, decks, and sheds showing the measurements between all buildings and property lines. Said plot plan shall be submitted before a permit is granted and shall thereafter be submitted in updated form to the Clerk by April 30 each year.

13. Preservation of Rental Lots: The owner or operator of a mobile home park shall not permit a mobile home rental lot to be vacant for more than one year, nor shall such owner or operator construct or place or permit to be constructed or placed any structure on a vacant mobile home rental lot if such structure would interfere with the placement of another mobile home.

14. No mobile home or other structure shall be placed or constructed at a distance of less than 10 feet from any other mobile home or other structure or less than five feet from any street or alley right of way line in any pre-existing park.

**147.04 VARIANCES.** Variances from the minimum performance standards of this chapter may, upon application by the owner or proposed owner of a mobile home park, be granted by the Council. A variance application shall be made on a form supplied by the Clerk. There shall be no application fee. However, in the event any expense is incurred by the City in connection

with a variance application, such as expense for a special meeting of the Council, the applicant shall pay such expense regardless of whether the variance is granted. A variance may be granted by the Council only if all of the following conditions are found to exist:

1. The variance would not significantly enhance the danger of the spread of fire, hinder access for firefighting and emergency vehicles, jeopardize safety of travel within the public streets, or impact adversely on public health and sanitation.

2. Literal enforcement of the requirements of Section 147.03 would, in the specific case, result in unnecessary hardship. Unnecessary hardship may be found to exist where extraordinary conditions pertain to a particular mobile home park because of its size, shape or topography which would unreasonably limit the beneficial use which may be made of the property under the requirements of Section 147.03.

3. In considering a variance application, the Council may consider the opinions of adjoining property owners but the same shall not be determinative. Any variance granted shall provide for the minimum variance necessary to avoid undue hardship. In granting a variance, the Council may attach conditions which are deemed necessary to protect public health and safety. It is unlawful for any person to violate any conditions which are attached to the issuance of a variance and such violation shall, in addition to other penalties provided for violations of this Code of Ordinances, be grounds for revocation of a mobile home park permit.

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# CHAPTER 150

# BUILDING NUMBERING


**150.01 Definitions**
**150.02 Owner Requirements**
**150.03 Building Numbering Plan**


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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

**150.03 BUILDING NUMBERING PLAN.** Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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# CHAPTER 151

# TREES


151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees
151.04 Trimming Trees to Be Supervised
151.05 Disease Control
151.06 Inspection and Removal


**151.01 DEFINITION.** For use in this chapter, "parking" means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt

of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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# CHAPTER 155

# BUILDING REGULATIONS


**155.01 Intent**
**155.02 Definitions**
**155.03 Minimum Lot Size**
**155.04 Street and Property Line Setbacks**
**155.05 Permanent Foundations Required**
**155.06 Building Permits**
**155.07 Lot Size Reductions**
**155.08 Pre-Existing Nonconforming Buildings**
**155.09 Campers and Recreational Vehicles**


**155.01 INTENT.** It is the intent of this chapter to provide for the health, safety and general welfare of the City and its residents and the safety of property by imposing minimum standards designed to avoid fires or the spread thereof, to facilitate access for firefighting and emergency vehicles, to assure safety of travel within the public streets and the avoidance of unsanitary conditions. The provisions of this chapter shall apply to all areas of the City except mobile home parks, which are governed by the provisions of Chapter 147 of this Code of Ordinances.

**155.02 DEFINITIONS.** As used in this chapter, except when the context clearly indicates otherwise, the following definitions shall apply:

1. "Building" or "structure" means any structure built, used, designed or intended for the support, shelter, protection or enclosure of persons, animals or property of any kind and which is permanently affixed to the land. Included in this definition are garages, sheds, porches, decks and steps, including any addition to or enlargement of the same or of any other type of building or structure, and mobile homes, as defined in Section 146.01(3) of this Code of Ordinances, located outside of mobile home parks which have been converted to real estate as provided in Section 435.26 of the *Code of Iowa* and placed on a permanent foundation as provided in 146.03 of this Code of Ordinances. This definition does not include sidewalks, driveways, patios or other ground level constructions, or fences, yard ornament or utility poles and lines.

2. "Lot" means a single tract of land, under common ownership and/or legal control, used as a unit or designated in a building permit application to be used, developed or built upon as a unit. A lot may be composed of all or part of one or more lots of official record.

3. "Permanent foundation" means a poured concrete or concrete block wall on top of a concrete footing which extends a minimum of four feet below the average ground surface elevation surrounding the structure, or a series of pilings or columns of concrete, steel or treated wood placed along the perimeter of a dwelling at no less than six-foot centers and extending into the ground a minimum of four feet, and with such foundation system skirted with continuous and permanent material for the entire height of the foundation so as to conceal the foundation system and to prevent the habitation of rodents under such structure.

**155.03 MINIMUM LOT SIZE.** No building or other structure shall be constructed, erected or placed upon a lot smaller than 6,000 square feet.

**155.04 STREET AND PROPERTY LINE SETBACKS.** All buildings or other structures shall be set back from any public right-of-way line and from any property line the following minimum distances:

1. Except as provided in subsection 4, from any public street right-of-way ..... 15 feet

2. From any public alley..... 7 feet

3. From any property line..... 5 feet

4. From the east (river) side of Sandy Point Road right-of-way..... 5 feet

Porches, decks and other building appurtenances and free-standing buildings and structures shall not be permitted within any required setback areas.

**155.05 PERMANENT FOUNDATIONS REQUIRED.** Every structure used for or intended to be used for human habitation shall be placed upon a permanent foundation, except within a manufactured home community, a mobile home park or seasonal trailer park. A permanent foundation is defined as a poured concrete or concrete block wall on top of a concrete footing which extends a minimum of four feet below the average ground surface elevation surrounding the structure, or a series of pilings or columns of concrete, steel or treated wood placed along the perimeter of a dwelling at no less than six-foot centers extending into the ground a minimum of four feet, with such foundation system skirted with continuous and permanent material for the entire height of the foundation so as to conceal the foundation system and prevent the habitation of rodents under such structures.

**155.06 BUILDING PERMITS.**

1. No person shall construct, erect or move upon any lot, or cause to be constructed, erected or moved upon any lot, any building or structure unless a building permit has been issued therefor, in advance, by the Clerk, and has not been revoked.

2. Applications for buildings permits shall be made in writing on forms supplied by the Clerk by the owner or person in lawful control of a lot or by such person's agent. An application fee of $50.00 shall accompany the application and shall be refunded if a building permit is denied. In the event construction has commenced on a structure or a building has been moved without first obtaining a building permit, an application fee of $150.00 shall accompany the application; provided, however, that payment of the higher fee shall not preclude the City from undertaking any enforcement procedures in the event of violations of this section.

3. The application shall include a scaled drawing showing the lot lines, existing buildings and structures, proposed new buildings and structures, the dimensions of all of the same, and the distances of all existing and proposed buildings and structures from the property lines. It shall be the duty of the applicant to establish the location of property lines with reasonable certainty and the Clerk may, with the approval of the Mayor, require the applicant to engage a licensed land surveyor to establish property lines.

4. A written building permit shall be issued if the Clerk finds that the proposed new building or structure will comply with the requirements of this chapter. The permit shall be valid only for the new building or structure proposed in the application. Any substantial variation in the location or dimensions of the new building or structure shall require a new application and permit.

5. A building permit shall become invalid and automatically revoked if the new construction authorized by it does not commence within 60 days of its issuance.

6. If a building permit application is denied by the Clerk because the proposed building or structure would not be in compliance with the requirements of this chapter, the applicant may apply to the Council for a variance. A variance application shall be made on a form supplied by the Clerk. There shall be no application fee. However, in the event any expense is incurred by the City in connection with the variance application, such as expense for a special meeting of the Council, the applicant shall pay such expense regardless of whether the variance is granted. A variance may be granted by the Council only if all of the following conditions are found to exist:

A. The variance would not significantly enhance the danger of the spread of fire, hinder access for firefighting and emergency vehicles, or jeopardize safety of travel within the public streets.

B. Literal enforcement of the requirements of this chapter would, in the specific case, result in unnecessary hardship. Unnecessary hardship may be found to exist where extraordinary conditions pertain to a particular lot because of its size, shape or topography which would unreasonably limit the beneficial use which may be made of the property under the requirements of this chapter.

In considering a variance application, the Council may consider the opinions of adjoining property owners but the same shall not be determinative. Any variance granted shall provide for the minimum variance necessary to avoid undue hardship. In granting a variance, the Council may attach conditions which are deemed necessary to protect public health and safety. Upon approval of a variance, the Clerk shall issue a building permit to the applicant and shall include in the permit a statement of any conditions imposed by the Council.

**155.07 LOT SIZE REDUCTIONS.** No person shall, by ownership transfer or otherwise, reduce the size of any lot in a manner causing such lot or any building or structure located on it to be in violation of the size or setback requirements of this chapter or causing any increase in any pre-existing nonconformity.

**155.08 PRE-EXISTING NONCONFORMING BUILDINGS.** Any building or structure which was in existence or under construction as of September 13, 1989, or as of the effective date of any amendment to this chapter, but which is not in compliance with the requirements of this chapter or of any amendment hereto, is not rendered unlawful by this chapter or such amendment. However, any such building or structure shall not be enlarged or otherwise modified following completion so as to increase its nonconformity. If any such building or structure is demolished or removed, any new or replacement building or structure shall be subject to the requirements of this chapter and any amendments.

**155.09 CAMPERS AND RECREATIONAL VEHICLES.**

1. As used in this section, "camper" means "travel trailer," "fifth-wheel travel trailer" and "motor home," as those terms are defined in Section 321.1 of the *Code of Iowa*; and "recreational vehicle" includes boats and other watercraft, snowmobiles and trailers for transporting such vehicles.

2. No person shall park or place a camper or recreational vehicle on any public street or alley or other public property or within any of the setback areas on any private property for a continuous period in excess of 48 hours.

3. No person shall occupy and use a camper on any public street or alley or other public property, or within any of the setback areas on any private property.

4. No person shall occupy and use a camper on any lot unless the occupants and users are permanent occupants of the lot or social guests of permanent occupants of the lot, and such occupancy and use does not exceed 14 consecutive days. For purposes of this subsection, no camper connected directly or indirectly to a water supply or to a sewer or electrical utility shall be considered unoccupied and unused.

5. This section does not apply to campers or recreational vehicles located in a campground operated by any public entity.

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# CHAPTER 156

# SIGNS


**156.01 Definitions**
**156.02 Unsafe and Unlawful Signs**
**156.03 Painting Required Every Two Years**
**156.04 Wind Pressure and Dead Load Requirements**
**156.05 Removal of Certain Signs**
**150.06 Exemptions**
**156.07 Obstructions to Doors, Windows or Fire Escapes**
**156.08 Signs Not to Constitute Traffic Hazard**
**156.09 Face of Sign Shall Be Smooth**
**156.10 Goose Neck Reflectors**
**156.11 Spotlights and Floodlights Prohibited**
**156.12 Removal upon Abandonment of Use**
**156.13 Ground Signs**
**156.14 Wall Signs**
**156.15 Roof Signs**
**156.16 Projecting Signs**
**156.17 Permit Required**
**156.18 Application for Permit**
**156.19 Annual Inspection**
**156.20 Permit Fees**
**156.21 Revocation of Permit**


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

1. "Erect" means to build, construct, attach, hang, suspend or affix and also includes the painting of wall signs.

2. "Facing" or "surface" means the surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

3. "Ground sign" means any sign supported by uprights or braces placed upon the ground and not attached to any building.

4. "Illuminated sign" means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign proper.

5. "Incombustible material" means any material which will not ignite at or below a temperature of 1200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

6. "Projecting sign," as regulated by this chapter, means any sign which is attached to a building or other structure and extends beyond the line of said building or structure or beyond the surface of that portion of the building or structure to which it is attached. All projecting signs shall be illuminated signs, as defined by this chapter.

7. "Roof sign," as regulated by this chapter, means any sign erected, constructed and maintained wholly upon or over a roof of any building with the principal support on the roof structure.

8. "Sign" means and includes every sign, billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign and temporary sign, and includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public.

9. "Street line" means the place where the public sidewalk begins and the private property line ends.

10. "Structural trim" means the molding, battens, cappings, mailing strips, latticing and platforms which are attached to the sign structure.

11. "Wall sign" means all flat signs of solid face construction which are placed against a building or other structure and attached to the exterior front, rear or side wall of any building or other structure.

**156.02 UNSAFE AND UNLAWFUL SIGNS.** If the Mayor finds that any sign or other advertising structure regulated hereunder is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, the Mayor shall give written notice thereof to the permit holder. Such notice shall include a statement explaining the alleged violations and deficiencies, an order to repair or remove said sign and an explanation of the consequences of failure to comply with said order. If the permit holder fails to remove or alter said sign so as to comply with the order within 10 days after such notice, said sign or other advertising structure may be removed or altered to comply by the Mayor at the expense of the permit holder or owner of the property on which it is located. The permit holder may appeal the order of the Mayor to the Council, and if such an appeal is on file, the 10-day compliance period shall be extended until 10 days following the Council's decision on the matter. If, however, the Mayor finds that any sign or other advertising structure poses a serious and immediate threat to the health or safety of any person, the Mayor may order the removal of such sign summarily and without notice to the permit holder. Such an order may be appealed to the Council, and if the Council reverses, it shall order restitution at the City's expense.

**156.03 PAINTING REQUIRED EVERY TWO YEARS.** The owner of any sign as defined and regulated by this chapter shall be required to have properly painted at least once every two years all parts and supports of the said sign, unless the same are galvanized or otherwise treated to prevent rust.

**156.04 WIND PRESSURE AND DEAD LOAD REQUIREMENTS.** All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than 40 pounds per square foot of area; and shall be constructed to receive dead loads as required by the City.

**156.05 REMOVAL OF CERTAIN SIGNS.** Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found within 10 days after written notification from the Mayor, and upon failure to comply with such notice with the time specified in such order, the Mayor is hereby authorized to cause removal of such signs, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.

**150.06 EXEMPTIONS.** The provisions and regulations of this chapter do not apply to the following signs; provided, however, said signs shall be subject to the provisions of Section 156.02.

1. Real Estate. Real estate signs not exceeding eight square feet in area which advertise the sale, rental or lease of the premises upon which said signs are located only.

2. Professional. Professional name plates not exceeding one square foot in area.

3. Painted on Exterior of Building. Signs painted on the exterior surface of a building or structure; provided, however, if said signs have raised borders, letters, characters, decorations or lighting appliances, they shall be subject to the provisions of this chapter.

4. Bulletin Boards. Bulletin boards not over eight square feet in area for public, charitable or religious institutions when the same are located on the premises of said institutions.

5. Construction Signs. Signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding 16 feet in area.

6. Occupational Signs. Occupational signs denoting only the name and profession of an occupant in a commercial building, public institutional building or dwelling house, and not exceeding two square feet in area.

7. Memorial Signs. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

8. Traffic Signs. Traffic or other municipal signs, legal notices, railroad crossing signs, danger and such temporary, emergency or non-advertising signs as may be approved by the Council.

**156.07 OBSTRUCTIONS TO DOORS, WINDOWS OR FIRE ESCAPES.** No sign shall be erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

**156.08 SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD.** No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words STOP, LOOK, DRIVE-IN, DANGER, or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse traffic. No sign or other advertising structure as regulated by this chapter shall have posts, guides or supports located within any street or alley.

**156.09 FACE OF SIGN SHALL BE SMOOTH.** All signs or other advertising structures which are constructed on street lines, or within five feet thereof shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom, except electrical reflectors and devices which may extend over the top and in front of the advertising structures.

**156.10 GOOSE NECK REFLECTORS.** Goose neck reflectors and lights shall be permitted on ground signs, roof signs and wall signs; provided, however, the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property.

**156.11 SPOTLIGHTS AND FLOODLIGHTS PROHIBITED.** It is unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights.

**156.12 REMOVAL UPON ABANDONMENT OF USE.** It is the responsibility of the owner of the sign to remove such sign when its advertising or other commercial use is abandoned.

**156.13 GROUND SIGNS.** The requirements for ground signs are as follows:

1. Materials Required. All ground signs for which a permit is required under this chapter shall have a surface or facing of incombustible material; provided, however, combustible structural trim may be used thereon.

2. Letters, Etc., to Be Secured. All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure.

3. Height Limitation. It is unlawful to erect any ground sign whose total height is greater than 20 feet above the level of the street upon which the sign faces, or above the adjoining ground level, if such ground level is above street level.

4. Space Between Sign and Ground and Other Signs and Structures. Ground signs shall have an open space not less than two feet between the base line of said sign and the ground level. This open space may be filled in with a platform or decorative lattice work which does not close off more than one-half of the square footage of such open space. No ground sign shall be nearer than two feet to any other sign, building or structure.

5. Setback Line. No ground sign shall be nearer the street than the building line.

6. Bracing, Anchorage and Supports. All ground signs shall be securely built, constructed and erected upon posts and standards sunk at least three and one-half feet below the natural surface of the ground, and shall be supported and braced by timbers or metal rods in the rear thereof, extending from the top thereof to a point of the ground at least a distance equal to one-half the height of such sign, measured along the ground, from the posts or standards upon which the same is erected.

7. Supports, Etc., to Be Creosoted. All posts, anchors and bracing of wood shall be treated to protect them from moisture by creosoting or other approved methods when they rest upon or enter into the ground.

8. Premises to Be Kept Free of Weeds, Etc. All ground signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

**156.14 WALL SIGNS.** The requirements for wall signs are as follows:

1. Materials Required. All wall signs for which a permit is required under this chapter shall have a surface or facing of incombustible material; provided, however, combustible structural trim may be used thereon.

2. Limitation on Placement and Area. No wall sign shall cover wholly or partially any wall opening, or project beyond the ends or top of the wall to which it is attached, and any one wall sign shall not exceed an area of 500 square feet.

3. Projection Above Sidewalk and Setback Line. No wall sign shall be permitted to extend more than six inches beyond the building line, and shall not be attached to a wall at a height of less than 10 feet above the sidewalk or ground.

4. Supports and Attachment. All wall signs shall be safely and securely attached to the building wall by means of metal anchors, bolts or expansion screws of not less than three-eighths inch in diameter embedded in said wall at least five inches; provided, however, such signs may rest in, or be bolted to, strong, heavy, metal brackets or saddles

set not over six feet apart, each of which shall be securely fixed to the wall as herein provided. In no case shall any wall sign be secured with wire, strips of wood or nails.

5. Wind Pressure and Dead Load Requirements. All wall signs shall conform to the requirements of Section 156.04 of this chapter.

**156.15 ROOF SIGNS.** The requirements for roof signs are as follows:

1. Materials Required. Every roof sign, including the upright supports and braces thereof, shall be constructed entirely of incombustible materials; provided, however, combustible structural trim may be used thereon.

2. Height and Area Limitations. No roof sign shall have a surface or facing exceeding 300 square feet, or have its highest point extended more than 20 feet above the roof level.

3. Setback From Roof Edge. No roof sign shall be erected or maintained with the face thereof nearer than five feet to the outside wall toward which the sign faces.

4. Space Between Sign and Roof. All roof signs shall have a space at least five feet in height between the base of the sign and the roof level, and have at least five feet of clearance between the vertical supports thereof.

5. Prohibited Obstructions. No roof sign shall be placed on the roof of any building or structure in such manner as to prevent free passage from one part of said roof to another part thereof or interfere with openings in said roof and shall comply with Section 156.07 of this chapter.

6. Bracing, Anchorage and Supports. Every roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces. When erected upon buildings which are not constructed entirely of fireproof material, the bearing plates of said sign shall bear directly upon masonry walls and intermediate steel columns in the building. No roof sign shall be supported or anchored to the wooden framework of a building.

7. Wind Pressure and Dead Load Requirements. All roof signs shall conform to the requirements of Section 156.04 of this chapter.

**156.16 PROJECTING SIGNS.** The requirements for projecting signs are as follows:

1. Approval Required. Every projecting sign, including the frames, braces and supports thereof, shall be designed by a structural engineer or manufacturer, and shall be approved by the Council. Such signs shall be constructed of incombustible materials, shall be illuminated and shall be two-faced.

2. Illumination. The reflectors shall be provided with the proper glass lenses concentrating the illumination upon the area of the sign and preventing glare upon the street or adjacent property; and no floodlight or spotlight or reflectors of the goose-neck type shall be permitted on projecting signs.

3. Limitation of Glass. The lettering or advertising designs to be illuminated may be composed of glass or other transparent or semi-transparent incombustible material. Any glass forming a part of any sign shall be safety glass or plate glass at least one-fourth-inch thick and in case any single piece or pane of glass has an area exceeding three square feet, it shall be wired glass. One section, not exceeding three square feet in area, constructed of wire glass or safety glass shall be permitted on each side of a sign.

4. Movable Parts to Be Secured. Any movable parts of a projecting sign such as the cover of a service opening shall be securely fastened by chains or hinges.

5. Area Limitations. Projecting signs shall be limited in area as follows:

A. Horizontal projecting signs – 50 square feet each side. "Horizontal projecting sign" means any sign which is greater in width than in height.

B. Vertical projecting signs – 100 square feet each side. "Vertical projecting sign" means any sign which is greater in height than in width.

6. Thickness Limitation. The distance measured between the principal faces of any projecting sign shall not exceed 18 inches.

7. Projection Over Public Property. Every projecting sign shall be placed at least 12 feet above the public sidewalk over which it is erected, and of a distance not greater than two feet from the face of the wall to which it is attached, measuring from the point of the sign nearest thereto, or less than one foot. Every projecting sign erected over public driveways, alleys and thoroughfares shall be placed not less than 15 feet above the level of the same.

8. Obstructions and Traffic Hazards. Every projecting sign shall be erected in full compliance with Sections 156.07 and 156.08 of this chapter.

9. Bracing, Anchorage and Supports. Projecting signs exceeding 10 square feet in area or 50 pounds in weight shall not be attached to or supported by frame buildings or the wooden framework of a building. Said signs shall be attached to masonry walls with galvanized expansion bolts at least three-eighths-inch in diameter, shall be fixed in the walls by means of bolts extending through the wall, and shall contain proper size metal washer or plate on the inside of the wall.

10. Anchorage with Wire, Etc., Prohibited. No projecting sign shall be secured with wire, strips of wood or nails, nor shall any projecting sign be hung or secured to any sign.

11. V-Shaped Signs Prohibited. V-shaped signs, consisting of two single faced signs erected without a roof or ceiling, are not permitted.

**156.17 PERMIT REQUIRED.** It is unlawful for any person to erect, repair, alter, relocate or maintain within the City any sign or other advertising structure as defined in this chapter, without first obtaining a written permit from the Council.

**156.18 APPLICATION FOR PERMIT.** Application for a permit must be submitted to the Council and shall contain or have attached thereto the following information:

1. Name, business name, address and telephone number.

2. Location of the building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.

3. Position of the sign or other advertising structure in relation to nearby buildings or structures.

4. Specifications and method of construction and attachment to the building or in the ground.

5. Written consent of the owner of the building, structure or land on which the structure is to be erected.

6. Such other information as the Council shall require to show full compliance with this chapter and all other ordinances of the City.

**156.19 ANNUAL INSPECTION.** The Mayor shall inspect annually, or at such times as deemed necessary, each sign or other advertising structure regulated by this chapter for the purpose of ascertaining whether the same is secure or insecure, and whether it is in need of removal or repair.

**156.20 PERMIT FEES.** No permit fee is required from an applicant to obtain an erection permit.

**156.21 REVOCATION OF PERMIT.** Any permit holder who fails to comply with a valid order of the Mayor within the allotted time period, or who fails to pay reasonable removal or repair expenses shall have the permit as to such sign or signs revoked, and another permit for the erection or maintenance of such sign or signs shall not be issued to the permit holder for a period of one year from the date of revocation.

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# CHAPTER 160

# FLOODPLAIN MANAGEMENT


**160.01 Definitions**
**160.02 Statutory Authority, Findings of Fact, and Purpose**
**160.03 General Provisions**
**160.04 Administration**
**160.05 Floodplain Management Standards**
**160.06 Variance Procedures**
**160.07 Nonconforming Uses**
**160.08 Penalties for Violation**
**160.09 Amendments**


**160.01 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Appurtenant structure" means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

2. "Base flood" means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the "100-year flood").

3. "Base flood elevation" (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

5. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

6. "Enclosed area below lowest floor" means the floor of the lowest enclosed area in a building when all the following criteria are met:

   A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.05(4)(A) of this chapter; and

   B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

   C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and

   D. The enclosed area is not a basement, as defined in this section.

7. "Existing construction" means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

8. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

9. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

10. "Factory-built home" means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

11. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

12. "500-year flood" means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.

13. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

14. "Flood insurance rate map" (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

15. "Flood insurance study" (FIS) means a report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

16. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

17. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

18. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

19. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

20. "Floodway fringe" means those portions of the special flood hazard area outside the floodway.

21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

22. "Historic structure" means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.

23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of "enclosed area below lowest floor" are met.

24. Maximum damage potential uses" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

25. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than $500.00.

26. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.

28. "Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;

B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;

C. Basement sealing;

D. Repairing or replacing damaged or broken window panes;

E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

30. "Special flood hazard area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal

or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

36. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

**160.02 STATUTORY AUTHORITY, FINDINGS OF FACT, AND PURPOSE.**

1. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents

by minimizing those flood losses described in Paragraph 2(A) of this section with provisions designed to:

A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.03 GENERAL PROVISIONS.**

1. Lands to Which Chapter Applies. The provisions of this ordinance shall apply to all lands and development which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Allamakee County and Incorporated Areas, City of Harpers Ferry, Panels 19005C0408C and 0409C, dated September 18, 2020, which were prepared as part of the Allamakee County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the base flood boundary, the location shall be determined on the basis of the base flood elevation at the particular site in question. The Flood Insurance Study for the County of Allamakee County is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

7. Severability. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

**160.04 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of Clerk.

A. The Clerk is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Council of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

a. Development placed within the Floodway results in any of the following: (i) an increase in the Base Flood Elevations; or (ii) alteration to the floodway boundary.

b. Development place in Zone A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or

c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this ordinance.

(11) Forward all requests for variances to the City Council for consideration. Ensure all requests include the information ordinarily submitted with applications as well any additional information deemed necessary to the City Council.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate within any special flood hazard area, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all structures and building additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.

(7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the City Council.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

## 160.05 FLOODPLAIN MANAGEMENT STANDARDS.

1. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. Until a regulatory floodway is designated, no development may increase the base flood elevation more than one foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

A. All Development. All development shall:

(1) Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods

used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

(1) Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including

ductwork) elevated or floodproofed to a minimum of one foot above the base flood elevation.

E. Factory-Built Homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems.

(1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.

H. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

I. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

J. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

K. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.

(2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of Section 160.05(1)(D)(1) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of Section 160.05(1)(E) of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days; and

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is

attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.05(1)(E) of this section regarding anchoring and elevation of factory-built homes.

M. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

2. Special Floodway Provisions. In addition to the General Floodplain Standards, development within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. No development shall be permitted in the floodway that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

B. All development within the floodway shall:

(1) Be consistent with the need to minimize flood damage.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable General Floodplain Standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

## 160.06 VARIANCE PROCEDURES.

1. The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the

issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors upon Which the Decision of the City Council Shall Be Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the County.

F. The requirements of the facility for a floodplain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

M. Such other factors which are relevant to the purpose of this chapter.

3. Conditions Attached to Variances. Upon consideration of the factors listed above, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

A. Modification of waste disposal and water supply facilities.

B. Limitation of periods of use and operation.

C. Imposition of operational controls, sureties, and deed restrictions.

D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**160.07 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

3. Except as provided in Section 160.07(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

**160.08 PENALTIES FOR VIOLATION.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a municipal infraction. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

**160.09 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

***(Ch. 160 – Ord. 323 – Feb. 21 Supp.)***

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# CHAPTER 165

# SUBDIVISION REGULATIONS


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**165.01 TITLE.** This chapter shall be known and may be cited as "The City of Harpers Ferry, Iowa, Subdivision Control Ordinance."

**165.02 PURPOSE.** The purpose of this chapter is to establish minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety, and general welfare in the City. This chapter is intended to impose a subdivision plat requirement in many situations where State law does not or may not impose such a requirement.

**165.03 AUTHORITY.** These regulations are adopted pursuant to the authorization contained in Chapter 354 of the *Code of Iowa*, as amended, and this chapter shall be applied and interpreted consistently with the provisions of Chapter 354. However, where the requirements of this chapter are more stringent than Chapter 354, this chapter shall control.

**165.04 TERRITORIAL APPLICATION.** This chapter shall apply to subdivisions of and subdivision plats prepared for any land located within the corporate limits of the City and, pursuant to Section 354.9 of the *Code of Iowa*, to any land located within two miles of the corporate limits which is within the State of Iowa and not within the corporate limits of any other City.

**165.05 DEFINITIONS.** As used in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

2. "Alley" means a public service way or right-of-way, other than a street, designed to provide a secondary means of access to abutting property.

3. "Auditor" means the County Auditor of Allamakee County, Iowa.

4. "Auditor's plat" means a subdivision plat required by the Auditor, prepared by a surveyor under the direction of the Auditor.

5. "Block" means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.

6. "Building line" means a line on a plat between which line and public right-of-way no buildings or structures may be erected.

7. "City Engineer" means a licensed engineering firm in the State, employed by the City, and working on behalf of the City.

8. "Cul-de-sac" means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

9. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance, plat of survey or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for purposes of this chapter.

10. "Easement" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property. Such purpose shall be in writing on the face of the final plat.

11. "Final plat" means the graphical representation of a subdivision of land prepared in the form which, if approved by the Council, will be filed and recorded with the County Recorder.

12. "Frontage road" means a local or collector street auxiliary to and located on the side of an arterial street for control of access and to collect and distribute traffic to abutting development.

13. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

14. "Metes and bounds description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

15. "Official plat" means either an auditor's plat or a subdivision plat that meets the requirements of *Code of Iowa* Chapter 354 and this chapter and has been filed for record in the offices of the County Recorder, Auditor and Assessor. Any plat which is a "subdivision plat" as defined in *Code of Iowa* Section 354.2(17) and which was recorded in the offices of the County Recorder and Auditor prior to December 1, 1997, shall be deemed an "official plat" for purposes of this chapter.

16. "Parcel" means a part of a tract of land.

17. "Performance bond" means a guarantee in writing backed by substantial assets pledged by any financial institution, insurance company, or other party of substantial financial standing being bound with its principal for the payment of a sum of money or for the performance of some duty or promise required of the party being serviced and being of sufficient amount to secure to the City that the required subdivision improvement will be provided in accordance with this chapter.

18. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

19. "Preliminary plat" means the graphical representation of a subdivision of land, prepared by a registered land surveyor, indicating the proposed manner or layout of a subdivision, which is submitted to the Council for consideration and preliminary approval, and is used as the basis for drafting a final plat.

20. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement or lien interest.

21. "Street" or "road" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place or other appropriate designation.

22. "Street, arterial" means an existing or proposed street which is or would be planned to carry through traffic on a continuous route through the City, and is identified as such on the City's street plan map.

23. "Street, collector" means a street intended to carry vehicular traffic from local or minor streets to arterial streets or traffic generators.

24. "Street, local" means a street used primarily for access to abutting property.

25. "Subdivider" means the proprietor of a tract or parcel of land who divides or proposes to divide such tract or parcel in such a manner as to cause or create a subdivision.

26. "Subdivision" means a tract or parcel of land divided or proposed to be divided, either by repeated or simultaneous divisions, so as to cause there to be three or more parcels in a single tract. The existence of a subdivision shall be determined without regard to any of the following:

A. Whether the divisions are carried out by the same or successive owners of the tract or parcel.

B. Whether any parcels resulting from the division are described by metes and bounds.

C. Whether any plats of survey have been or are proposed to be recorded for any of the parcels.

The existence of a subdivision shall be determined with reference to the smallest tract of which the land divided or to be divided is a part, taking into account any parcels created from the same tract by previous divisions but disregarding any tract previously created from part of the same tract. If the land to be divided constitutes a previously undivided tract, such tract shall be deemed the "smallest tract" for purposes of the preceding sentence. If contiguous tracts or parcels are subdivided simultaneously, all the land involved shall be treated as a single subdivision.

27. "Subdivision plat" means the graphical representation of a subdivision of land or all of that part of a subdivision of land owned by the subdivider, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for Allamakee County, Iowa. Both "preliminary plats" and "final plats" are subdivision plats. A subdivision plat shall cover only land owned by the subdivider unless adjoining land owners are jointly subdividing their properties.

28. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to the *Code of Iowa*.

29. "Tract" means an aliquot part of a section or a lot within an official plat. For purposes of determining the existence of a subdivision, a tract located within a larger tract shall not be considered a part or division of the larger tract.

**165.06 SUBDIVISION PLAT REQUIREMENTS.** Except as provided in this section, a subdivision plat shall be made and recorded when a subdivision is caused or created. Unless required by State law, a subdivision plat is not required when land is divided by any of the following:

1. A conveyance to a governmental entity or agency for public improvement purposes.

2. Any conveyance by a governmental entity or agency.

3. A plat of survey of land owned by a governmental entity or agency.

4. A boundary adjustment conveyance. For purposes of this section, a "boundary adjustment conveyance" means a transfer of ownership by the owner of a tract or parcel to the owner of an adjoining tract or parcel of land located along the common boundary between their respective properties, provided that the total quantity of land thus transferred by present or former owners of either tract or parcel does not exceed 1,500 square feet within any five year period; and, provided further, that no tract or parcel is by such transfer reduced in size in violation of the provisions of Chapter 155 of this Code of Ordinances.

**165.07 COMPLIANCE AND ENFORCEMENT.** The subdivision of land located within the territory to which this chapter applies shall be governed by this chapter and every subdivider of land shall comply with the requirements of this chapter. However, the provisions of this chapter shall apply to Auditor's plats which are also subdivision plats only to the extent consistent with the provisions of *Code of Iowa* Chapter 354. In addition to other remedies or penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. Recording Prohibited. No subdivision plat or any other document causing or creating a subdivision of land shall be recorded in the office of the Allamakee County Recorder, nor shall any such plat or subdivision have any validity in the absence of compliance with the provisions of this chapter, including approval or waiver of review by resolution of the Council as prescribed herein.

2. Public Improvements. If a subdivision plat or other document causing or creating a subdivision of land is recorded in violation of this chapter, no streets or other public use areas within the subdivided land shall be recognized by the City or deemed accepted by the Council for public use, nor shall any City funds be expended for public improvements, maintenance, or other services within the subdivided land; nor shall any public funds be expended for such purposes with respect to subdivision plats approved in accordance with this chapter until all public improvements required as a condition of such approval have been installed, inspected, and accepted by the Council unless otherwise provided in an agreement entered into pursuant to subsection 165.25(4) of this chapter.

3. Municipal Infraction. It is a municipal infraction for any proprietor to violate any provision of this chapter.

4. Action to Annul Plat. If a subdivision plat is filed and recorded in violation of this chapter, the Council, after filing written notice with the proprietors who have joined in the acknowledgment of the plat or their successors in interest, may institute a suit in equity in district court for annulment of the plat pursuant to *Code of Iowa* Section 354.20.

**165.08 APPLICATION AND FEE.** Every subdivider seeking approval of or waiver of review by the Council of a proposed subdivision plat shall complete and file with the Clerk, with the preliminary plat, an application for approval of the subdivision plat on a form supplied by the Clerk. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by resolution of the Council.

**165.09 REQUIREMENTS OF PRELIMINARY PLAT.** The subdivider shall first prepare and file with the Clerk seven copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.

2. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners.

3. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.

4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.

5. Building setback or front yard lines.

6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

7. Present and proposed easements, showing locations, widths, purposes and limitations.

8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.

9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the City.

10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.

11. Existing and proposed zoning of the proposed subdivision and adjoining property.

12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

13. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the Council waives this requirement.

**165.10 REFERRAL OF PRELIMINARY PLAT.** The Clerk shall forthwith refer two copies of the preliminary plat to the City Engineer and five copies to the Council. In the alternative, in appropriate cases where, because of minimal scope, it appears a proposed subdivision will have no appreciable impact on community development or the provision of public improvements or services, the Clerk, with the approval of the Mayor, may refer the preliminary plat directly to the Council.

**165.11 ACTION BY THE CITY ENGINEER.** The City Engineer shall carefully examine said preliminary plat as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices and shall, as soon as possible, submit findings in duplicate to the Council, together with one copy of the plat received.

**165.12 ACTION BY THE COUNCIL.** The Council shall, upon receiving the report of the City Engineer, or upon direct referral by the Clerk, as soon as possible, but not more than 30 days thereafter, consider said report, if any, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Council does not act within 30 days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed an additional 60 days. The Council shall then set forth its decision by resolution, whether of approval, modification, disapproval or waiver of right to review.

1. In the event that substantial changes or modifications are made by the Council or disapproval of the plat, the Council shall give its reasons therefor and may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the Council shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the Council shall be noted on five copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other copies retained by the Council.

4. The "Conditional Approval" by the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

5. In appropriate cases where, because of minimal scope, a proposed subdivision will have no appreciable impact on community development or the provision of public improvements or services, the Council may grant a waiver of the right to review the subdivision plat. A waiver of the right to review shall constitute the grant of a variance of all standards and requirements imposed by this chapter except that the final plat attachments specified in subsections 1 through 6 of Section 165.16 shall not be subject to waiver if the plat includes any areas or improvements to be dedicated to the public. If the right to review is waived by the Council, the requirements of this chapter relating to final plats shall not be applicable except with respect to final plat attachments as set forth in this subsection.

**165.13 FINAL PLAT.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

**165.14 REFERRAL OF FINAL PLAT.** The subdivider shall, within 12 months of the "Conditional Approval" of the preliminary plat by the Council, prepare and file seven copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Council. Upon receipt of the final plat and other required documents, the Clerk shall transmit five copies of the final plat to the Council for its consideration and approval.

**165.15 REQUIREMENTS OF THE FINAL PLAT.** The final plat shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch with India ink on a reproducible tracing linen. It shall show:

1. The title under which the subdivision is to be recorded.

2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.

3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City plan.

4. Location, type, materials, and size of all monuments and markers including all U.S., County or other official bench marks.

5. The plat should be signed and acknowledged by the subdivision land owner and his or her spouse.

6. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

**165.16 FINAL PLAT ATTACHMENTS.** The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

2. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors shall include a dedication to the public of all lands within the plat that are designated for streets, alleys, utility or other easements, parks, open areas, school property or other public use.

3. A statement from the mortgage holders and all 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, together with a duly executed and acknowledged release of such mortgages or liens with respect to any areas proposed to be dedicated to the public. In lieu of such written consents and releases by mortgage holders or lienholders, an affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be submitted with the final plat.

4. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

5. A certificate of the County Treasurer that the land included in the proposed plat 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*. If the plat includes no land set apart for streets, alleys, parks, open areas, school property or other public use other than utility easements, the certificate of the Treasurer need only state that the land is free from certified taxes other than certified special assessments.

6. A complete statement of restrictions of all types that will run with the land and become covenants in all conveyances of lots in the subdivision.

7. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a 50-foot horizontal scale and a five-foot vertical scale with west or south at the left.

8. A certificate by the proprietor's engineer that all required improvements have been completed in accordance with City specifications, or that a performance bond guaranteeing completion of all required improvements has been approved by the City Attorney and filed with the Clerk, or that an agreement relating to the future construction of the required improvements has been entered into between the City and the subdivider pursuant to Section 165.25(4) of this chapter. If such an agreement exists, a copy of it shall also be attached to the final plat.

9. A proposed resolution for use by the Council which approves the final plat.

10. The encumbrance bond, if any.

**165.17 ACTION BY THE COUNCIL.** Upon receipt of the final plat, as soon as possible, but not more than 30 days thereafter, the Council shall either approve or disapprove the final plat by resolution.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.

3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

4. Approval of the final plat by the Council shall constitute a variance as to any requirements of this chapter with regard to which there has not been compliance, except for the plat attachment requirements specified in subsections 1 through 6 of Section 165.16.

**165.18 DESIGN STANDARDS FOR STREETS AND ALLEYS.** The following design standards shall be followed by all subdividers:

1. General Requirements.

A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.

B. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

C. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Council to meet a particular situation where topographical or other conditions make continuation or conformance to existing streets impracticable.

D. Half streets shall be prohibited except where essential to the reasonable development of the subdivision and adjoining tract, and where the Council finds it reasonable to require dedication of the other half when the adjoining tract is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

2. Right-of-Way. Minimum rights-of-way shall be provided as follows:

A. Arterial Streets – 45 feet minimum. Greater width may be required in accordance with City, County or State plans.

B. Collector streets – 45 feet.

C. Residential streets – 45 feet.

D. Cul-de-sacs – 120 feet in diameter.

E. Alleys – 20 feet.

3. Surface Width. Minimum width of surfacing to be provided shall be as follows:

A. Arterial streets – 45 feet, including curb and gutter.

B. Collector and local streets – 31 feet, including curb and gutter.

C. Cul-de-sacs – 100 feet in diameter, including curb and gutter.

D. Alleys – 20 feet.

4. Acreage Subdivisions.

A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

B. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

5. Minor Streets. Minor streets shall be so planned as to discourage through traffic. Cul-de-sac streets are permitted where topography and other conditions justify their use.

6. Frontage Streets.

A. Where a subdivision abuts or contains an existing or proposed arterial street, the Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Council may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

7. Street Geometries.

A. Street jogs with centerline offsets of less than 125 feet shall be avoided.

B. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

C. Cul-de-sacs shall not exceed 600 feet in length.

D. Proposed streets shall be adjusted to the contour of the land where possible so as to produce usable lots and streets of reasonable gradient.

E. No dead-end streets or alleys, other than cul-de-sacs, will be permitted except at subdivision boundaries.

F. Arterial and collector streets in a subdivision shall extend through the boundaries thereof.

G. Intersection of more than two streets at a point shall not be permitted.

H. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the Council shall determine for special cases.

8. Intersections.

A. Insofar as in practical, acute angles between streets at their intersection are to be avoided.

B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.

C. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the Council may deem it necessary. The Council may permit comparable cutoffs or chords in place of rounded corners.

9. Street Names. Streets that are in alignment with other already existing streets shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council.

10. Street Grades.

A. Street grades, wherever feasible, shall not exceed five percent, with due allowance for reasonable vertical curves.

B. No street grade shall be less than one-half of one percent.

11. Alleys.

A. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

B. The width of an alley shall be 20 feet.

C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Council.

**165.19 DESIGN STANDARDS FOR BLOCKS.** No block may be more than 1,320 feet or less than 500 feet in length between the centerlines of intersecting streets, except where, in the opinion of the Council, extraordinary conditions unquestionably justify a departure from these limits. In blocks over 700 feet in length, the Council may require at or near the middle of the block a public way or easement of not less than 10 feet in width for use by pedestrians and/or as an easement for public utilities.

**165.20 DESIGN STANDARDS FOR LOTS.** Lot design standards shall be as follows:

1. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

2. Minimum lot dimensions and sizes shall conform to the requirements of the zoning ordinance, provided:

A. Residential lots where not served by public sewer shall not be less than 80 feet wide nor less than one acre in area.

B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.

3. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

4. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

5. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

**165.21 BUILDING LINES.** Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of each subdivision.

**165.22 EASEMENTS.**

1. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least 10 feet wide. If for any reason the property adjoining a lot subject to an easement required under this subsection is not subject to a similar easement, the easements required by this subsection shall be not less than 20 feet in width.

2. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.

**165.23 PLAT MARKERS.** Markers shall be placed at all block comers, angle points, points of curves in streets, and all such intermediate points as shall be required by the City Engineer. The markers shall be of such material, size and length as may be approved by the City Engineer.

**165.24 IMPROVEMENTS REQUIRED.** All improvements required as a condition for approval of a subdivision plat shall be installed and constructed in accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the Council may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

5. Sewers.

A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the City Engineer.

B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health, must be provided for the adequate disposal of sanitary wastes.

C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the City Engineer.

**165.25 COMPLETION OF IMPROVEMENTS.** The specific location, capacity and timing for the construction and placement of required improvements shall be determined in the preliminary platting process. The subdivider shall install and construct all improvements required by this chapter prior to final approval of the subdivision plat by the Council unless one of the following applies:

1. The Council waives its right to review the plat.

2. A variance from the requirements of this chapter is granted by the Council in granting final approval for the plat.

3. Prior to final action by the Council on the subdivision plat or prior to any reconsideration thereof following disapproval, the subdivider has, with the approval of the Council, secured a performance bond guaranteeing completion of all required improvements within one year, and such bond has been approved by the City Attorney and filed with the Clerk.

4. Prior to final action by the Council on the plat, or prior to any reconsideration thereof by the Council following disapproval, the City and the subdivider have entered into an agreement which, in the opinion of the Council, provides adequate assurance that all required improvements will be constructed within a reasonable time and establishes a funding mechanism for the cost of such improvements. Such an agreement may include provisions for the establishment of an escrow fund whereby some portion of the proceeds from future lot sales may be reserved and used for construction costs, and/or for the use of special assessments, and such other terms as to which the parties may agree. However, such an agreement shall not permit the delay of any required water and sewer utility improvements which may be delayed until after final plat approval only pursuant to subsection 3 of this section relating to performance bonds. This subsection does not create any duty on the part of the City to enter into an agreement of the type authorized herein.

**165.26 VARIANCES.** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements and in no instance shall it be in conflict with any zoning ordinance.

**165.27 CHANGES AND AMENDMENTS.** Any regulations or provisions of this chapter may be changed and amended from time to time by the Council, provided however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four or more than 20 days before the date of the hearing.

**165.28 AUDITOR'S PLATS.**

1. An auditor's plat, prepared pursuant to *Code of Iowa* Section 354.13 and filed with the Clerk pursuant to *Code of Iowa* Section 354.15, shall be exempt from the requirements of this chapter except for this section.

2. If the auditor's plat conforms to the requirements of *Code of Iowa* Chapter 355, the Council shall, within 60 days of the date of filing, approve the plat by resolution and certify the resolution to be recorded with the plat.

3. The resolution approving the auditor's plat shall state whether the lots within the auditor's plat meet the standards and conditions established by this chapter for subdivision lots.

4. The approval of an auditor's plat by the Council shall not impose any liability upon the City to accept dedication of any public use areas within the land included in the plat nor shall such approval impose any liability on the City to install or maintain any public improvements or utilities within the platted area; provided, however, the Council may, at its option, in the approving resolution, accept the dedication of any areas designated for public use.

5. Approval of an auditor's plat by the Council shall not constitute a waiver of the requirements of this chapter.

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# APPENDIX TO
# CODE OF ORDINANCES

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## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

## DISTRIBUTION OF COPIES

**1. OFFICIAL COPY.** The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

**2. DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

**3. SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

**4. RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

## NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

## RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

## SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

## DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

## AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

## ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

# ORDINANCE NO. ___

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARPERS FERRY, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF SOUTH BOONE STREET**

**BE IT ENACTED** by the City Council of the City of Harpers Ferry, Iowa:

**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Harpers Ferry, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

**69.16 PARKING LIMITED TO 30 MINUTES.** It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

# DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

## ORDINANCE NO. ___

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARPERS FERRY, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD**

**BE IT ENACTED** by the City Council of the City of Harpers Ferry, Iowa:

**SECTION 1. SUBSECTION REPEALED.** The Code of Ordinances of the City of Harpers Ferry, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.___ on the ___ day of _____, 20___.

_____
City Clerk

# MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

## ORDINANCE NO. ___

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARPERS FERRY, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Harpers Ferry, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 99.02 of the Code of Ordinances of the City of Harpers Ferry, Iowa, is repealed and the following adopted in lieu thereof:

> **99.02 RATE.** Each customer shall pay sewer service charges in the amount of 100 percent of the bill for water and water service attributable to the customer for the property served, but in no event less than $10.00 per month.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

# ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

*(Code of Iowa, Sec. 380.8)*

## ORDINANCE NO. ___

**AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO RAILROAD ADDITION TO HARPERS FERRY, IOWA**

Be It Enacted by the City Council of the City of Harpers Ferry, Iowa:

**SECTION 1.** The alley lying in Block Two, Railroad Addition to Harpers Ferry, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

# SUGGESTED FORMS

## FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Harpers Ferry, Iowa

By: _____
(enforcement officer)

# NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Harpers Ferry, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Harpers Ferry, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Harpers Ferry, Iowa

By: _____
(enforcement officer)

# RESOLUTION AND ORDER
# REGARDING DANGEROUS BUILDING

**BE IT RESOLVED,** by the City Council of the City of Harpers Ferry, Iowa:

**WHEREAS,** notice has heretofore been served on the ___ day of _____, 20___, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

**WHEREAS,** a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

**WHEREAS,** the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

**NOW THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

**BE IT FURTHER RESOLVED** that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

**Note:** It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

# NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Harpers Ferry, Iowa

By: _____
(designate officer initiating notice)

# NOTICE

# REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

## Description of Property

_____
_____
_____

The nearest public sewer line within _____ (____) feet of the above described property is located

_____
_____
_____

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Harpers Ferry, Iowa

By: _____, _____
(Name) (Title)

# NOTICE OF HEARING

# REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that the City Council of Harpers Ferry, Iowa, will meet on the ___ day of _____, 20___, at _____ __m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

**Description of Property**

_____
_____
_____

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Harpers Ferry, Iowa

By: _____, _____
(Name) (Title)

# RESOLUTION AND ORDER

# REQUIRED SEWER CONNECTION

**BE IT RESOLVED,** by the City Council of the City of Harpers Ferry, Iowa:

**WHEREAS,** notice has heretofore been served on the ____ day of _____, 20___, on _____,
(Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as
_____
_____
_____
_____

to the public sanitary sewer located_____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

**WHEREAS,** a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

**WHEREAS,** the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

**NOW, THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner's agent, _____
(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

**BE IT FURTHER RESOLVED** that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

**BE IT FURTHER RESOLVED,** that in the event the owner, or agent,

_____,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

_____

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20___.

_____

Mayor

ATTEST:

_____

City Clerk