

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

**Prepared By: Local Government Professional Services, Inc.**  
**DBA Iowa Codification**  
**P. O. Box 244**  
**114 E 5<sup>th</sup> Street**  
**Storm Lake, Iowa 50588**  
**(641) 355-4072**  
**[www.sc-ic.com](http://www.sc-ic.com)**



# **CODE OF ORDINANCES CITY OF ACKLEY, IOWA**

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# CHAPTER 1

## CODE OF ORDINANCES

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1.02 Definitions

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1.05 Personal Injuries

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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 Ackley, 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 Ackley, Iowa.
3. "Clerk" means the city clerk of Ackley, 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 Ackley, Iowa.
6. "Council" means the city council of Ackley, Iowa.
7. "County" means Franklin or Hardin County, Iowa.
8. "May" confers a power.
9. "Measure" means an ordinance, amendment, resolution or motion.
10. "Month" means a calendar month.
11. "Must" states a requirement.
12. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."
13. "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.

14. “Ordinances” means the ordinances of the City of Ackley, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
15. “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.
16. “Preceding” and “following” mean next before and next after, respectively.
17. “Property” includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
18. “Property owner” means a person owning private property in the City as shown by the County Auditor’s plats of the City.
19. “Public place” includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. “Public property” means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
20. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
21. “Shall” imposes a duty.
22. “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.
23. “State” means the State of Iowa.
24. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.
25. “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.
26. “Writing” and “written” include printing, typing, lithographing, or other mode of representing words and letters.
27. “Year” means a calendar year.

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

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

(*Code of Iowa, Sec. 364.1*)

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

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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

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

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

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

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. †

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

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

## CHAPTER 2

# CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties 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 Ackley, Iowa.<sup>†</sup>
- 2.02 FORM OF GOVERNMENT.** The form of government of the City is the Mayor-Council form of government.  
*(Code of Iowa, Sec. 372.4)*
- 2.03 POWERS AND DUTIES 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 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)*

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 174 adopting a charter for the City was passed and approved by the Council in 1972.

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## CHAPTER 3

# MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties

3.04 Civil Citations  
3.05 Alternative Relief  
3.06 Alternative Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
  - A. First offense – not to exceed \$750.00
  - B. Each repeat offense – not to exceed \$1,000.00

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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## CHAPTER 5

# OPERATING PROCEDURES

5.01 Oaths  
5.02 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 Ackley 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 except as allowed in Subsection 5.

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

*(Code of Iowa, Sec. 64.24(1)(a))*

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

*(Code of Iowa, Sec. 64.3)*

*(Section 5.02 – Ord. 528 – Sep. 24 Supp.)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

*(Section 5.06 – Ord. 529 – Sep. 24 Supp.)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.  
*(Code of Iowa, Sec. 362.5[3b])*
3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.  
*(Code of Iowa, Sec. 362.5[3c])*
4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in Subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.  
*(Code of Iowa, Sec. 362.5[3e])*
5. Newspaper. The designation of an official newspaper.  
*(Code of Iowa, Sec. 362.5[3f])*
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.  
*(Code of Iowa, Sec. 362.5[3g])*
7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.  
*(Code of Iowa, Sec. 362.5[3h])*
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.  
*(Code of Iowa, Sec. 362.5[3i])*
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.  
*(Code of Iowa, Sec. 362.5[3d])*
10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.  
*(Code of Iowa, Sec. 362.5[3j])*
11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.  
*(Code of Iowa, Sec. 362.5[3k])*
12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.  
*(Code of Iowa, Sec. 362.5[3l])*

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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

1. Appointment. By appointment following public notice by the remaining members of the Council within 60 days after the vacancy occurs, except that if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

**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, and 45.6)*

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

*(Code of Iowa, Sec. 45.4)*

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

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

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## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and
- B. The amount necessary to make all required transfers to restricted accounts for the succeeding three months.

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

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Annual Statement.

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

- A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information

for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

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

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

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

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

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

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

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

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Section 24.2A(2)(b) of the *Code of Iowa*.

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

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

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

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

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

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

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

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

*(Section 7.05 – Ord. 527 – Sep. 24 Supp.)*

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Mayor and Clerk 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. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations

remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

*(Code of Iowa, Sec. 384.22)*

*(Section 7.08 – Ord. 527 – Sep. 24 Supp.)*

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# CHAPTER 8

## URBAN RENEWAL

8.01 Definitions  
8.02 Taxes Levied

8.03 March 2016 Addition to the Ackley  
Urban Renewal Area

**8.01 DEFINITIONS.** For purposes of this chapter, the following terms have the following meanings:

1. “Original Area” means that portion of the City of Ackley, State of Iowa, described in the Urban Renewal Plan for the Ackley Urban Renewal Area approved by Resolution No. 88-31 on the 5<sup>th</sup> day of October, 1988, which Original Area includes the lots and parcels located within the area legally described as follows:

### Original Area

*The Southwest Quarter (SW¼) of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5<sup>th</sup> P.M., City of Ackley, Franklin County, Iowa.*

2. “Amendment No. 1 Area” means that portion of the City of Ackley, State of Iowa, described in Amendment No. 1 to the Urban Renewal Plan for the Ackley Urban Renewal Area approved by Resolution No. 95-15 on the 14<sup>th</sup> day of June, 1995, which Amendment No. 1 Area includes the lots and parcels located within the area legally described as follows:

### Amendment No. 1 Area

*A tract of land commencing thirty-five (35) feet west of the South Quarter (S¼) Corner of Section Thirty-five (35), Township Ninety North (90 N), Range Nineteen (19), West of the 5<sup>th</sup> P.M., thence south along the west line of Franklin Street to the north line of Douglas Avenue, thence west along the north line of Douglas Avenue to the west line of Eleventh Street, thence south along the west line of Eleventh Street to the south line of Lincoln Avenue, thence east along the south line of Lincoln Avenue to the west line of Franklin Street, thence south along the west line of Franklin Street to the center of the main line of the Chicago Central Pacific Railroad track, thence northeasterly along the center of the main line of said railroad track to the west line of Hardin Street, thence south along the west line of Hardin Street to the north line of Main Street, thence west along the north line of Main Street to the west line of State Street, thence south along the west line of State Street to the north line of First Avenue, thence west along the north line of First Avenue extended to the center of the main line of the Chicago Central and Pacific Railroad track, thence southwesterly along the center of the mainline of said railroad track to the east line of Fifteenth Street extended, thence north along the east line of Fifteenth Street to the south line of Lincoln Avenue, thence east along the south line of Lincoln Avenue to the east line of Thirteenth Street, thence north along the east line of Thirteenth Street to the north line of Douglas Avenue, thence west along the north line of Douglas Avenue to the east line of Seventeenth Street, thence north along the east line of Seventeenth Street to the south line of Section Thirty-five (35), Township Ninety*

*North (90 N), Range Nineteen (19) West of the 5<sup>th</sup> P.M., thence along the south line of said Section Thirty-five (35) to the point of beginning.*

3. “Amendment No. 2 Area” means that portion of the City of Ackley, State of Iowa, described in Amendment No. 2 to the Urban Renewal Plan for the Ackley Urban Renewal Area approved by Resolution No. 97-16 on the 13<sup>th</sup> day of August, 1997, which Amendment No. 2 Area includes the lots and parcels located within the area legally described as follows:

Amendment No. 2 Area

*The north fifteen (15) feet of the east one hundred ten (110) feet of Lot Eight (8); the east one hundred ten (110) feet of Lots Nine (9) and Ten (10); all of Lots Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17) and Eighteen (18) all in Block Six (6), Ackley, Hardin County, Iowa,*

AND

*The north fifty (50) feet of Lots Five (5) and Six (6) and all of Lots Seven (7), Eight (8), Nine (9), Ten (10) and Eleven (11) in Block Five (5), Ackley, Hardin County, Iowa;*

AND

*The east two hundred forty (240) feet of the alley running east and west in said Block Six (6);*

AND

*The west one hundred twenty (120) feet of the alley running east and west in said Block Five (5);*

AND

*The north two hundred eighty (280) feet of Cerro Gordo Street lying south of the south line of Sherman Avenue;*

AND

*The north seventy (70) feet of the east one-half (E<sup>1/2</sup>) of Franklin Street lying north of Sherman Avenue;*

AND

*The portion of Sherman Avenue described as follows, to wit: beginning at the North Quarter (N<sup>1/4</sup>) Corner of Section Two (2), Township Eighty-nine (89) North, Range Nineteen (19) West of the 5<sup>th</sup> P.M., Hardin County, Iowa, thence south to the north line of Block Six (6) extended westerly, thence east 287.10 feet along the north line of said Block Six (6), thence north to the north line of said Section Two (2), thence west along the north line of said Section Two (2) to the point of beginning, all in Ackley, Hardin County, Iowa.*

AND ALSO

*Beginning at the South Quarter Corner of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5<sup>th</sup> P.M., Franklin County, Iowa; thence north 959.50 feet along the west line of the Southeast Quarter*

*(SE¼) of said Section Thirty-five (35), thence east 287.10 feet, thence south 959.50 feet to the south line of the Southeast Quarter (SE¼) of said Section Thirty-five (35); thence west 287.10 feet along the south line of the Southeast Quarter (SE¼) of said Section Thirty-five (35), to the point of beginning;*

AND

*Beginning at the center of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5<sup>th</sup> P.M., Franklin County, Iowa; thence south 89°40' east 533 feet, thence south 218.30 feet, thence south 89°00' west 64.17 feet, thence south 236.61 feet, thence north 88°18' west 180.05 feet, thence south 121.88 feet, thence south 89°00' west 288.90 feet, thence north 580.70 feet along the west line of the Southeast Quarter of said Section Thirty-five (35) to the point of beginning.*

4. “Amendment No. 1 to Amended and Restated Area” means that portion of the City of Ackley, State of Iowa, described in the Ackley Amended and Restated Urban Renewal Plan for the Ackley Urban Renewal Area approved by Resolution No. 08-08 on the 13<sup>th</sup> day of August, 2008, which Amendment No. 1 to Amended and Restated Area includes the lots and parcels located within the area legally described as follows:

Amended and Restated Area  
(2008)

Amendment No. 1 Area

*Beginning at the intersection of 5<sup>th</sup> Street and State Street; then south on State Street to 10<sup>th</sup> Street; then east on 10<sup>th</sup> Street to Butler Street; then north on Butler Street to 1<sup>st</sup> Street; then west on 1<sup>st</sup> Street to Grundy Street; then south on Grundy Street to 5<sup>th</sup> Street; then west on 5<sup>th</sup> Street to State Street.*

*The area also includes the full right-of-way of State Street from 1<sup>st</sup> Street to 5<sup>th</sup> Street.*

*The area also includes the 160' deep properties located on the south side of 10<sup>th</sup> Avenue between Butler Street and State Street.*

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

5. “Amendment No. 2 to Amended and Restated Area” means that portion of the City of Ackley, State of Iowa, described in the Amendment No. 2 to Ackley Amended and Restated Urban Renewal Plan for the Ackley Urban Renewal Area approved by Resolution No. 14-12 on the 12<sup>th</sup> day of March, 2014, which Amendment No. 2 to Amended and Restated Area includes the lots and parcels located within the area legally described as follows:

Amendment #2 Amended And Restated Area  
(2014)

*Beginning at the intersection of the east line of 17th Street and the north line of Douglas Avenue; thence east along the north line of Douglas Avenue to the east line of 13th Street; thence south along the east line of 13th Street to the south line of Lincoln Avenue; thence west on the south line of Lincoln Avenue to the east line of 15th Street; thence south along the east line of 15th Street to the east extension of the north line of the alley in Block 17 and 18 of Burns and Fosters Addition; thence west along the north line of said alley and the west extension thereof to the west line of 17th Street; thence north along the west line of 17th*

*Street to the section line between Hardin and Franklin Counties; thence east along said section line to the north extension of the east line of 17th Street; thence south along the east line of 17th Street to the point of beginning.*

AND

*Beginning at the intersection of the east line of Butler Street and the north line of First Avenue; thence east along the north line of First Avenue to the north extension of the west line of Blackhawk Street; thence south along the west line of Blackhawk Street to the north line of Second Avenue; thence west along the north line of Second Avenue to the north extension of the west line of Blackhawk Street; thence south along the west line of Blackhawk Street to the south line Third Avenue; thence west along the south line of Third Avenue to the east line of Butler Street; thence north along the east line of Butler Street to the point of beginning.*

AND

*The east 40 feet of the Southeast Quarter (SE 1/4) of Section Thirty-four (34), Township Ninety (90) North, Range Nineteen (19) West of the 5th P.M.*

AND

*The West Twelve (12) acres of the North Half (N<sup>1</sup>/<sub>2</sub>) of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>), of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5th P.M., in Franklin County, Iowa, EXCEPT Commencing at the South Quarter (S<sup>1</sup>/<sub>4</sub>) corner of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5th P.M., Franklin County, Iowa; thence North 660.72 feet, along the west line of the SE<sup>1</sup>/<sub>4</sub> of said Section 35, to the point of beginning; thence North 298.78 feet, along the west line of the SE<sup>1</sup>/<sub>4</sub> of said Section 35; thence East 155.00 feet; thence North 49.00 feet; thence East 62.50 feet; thence North 97.00 feet; thence East 35.00 feet; thence N. 1°50'W., 114.60 feet; thence S. 81°40'E., 552.50 feet; thence S 0°07' W., 478.80 feet; thence S. 89°58' W., 794.50 feet along the south line of the N<sup>1</sup>/<sub>2</sub> SW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> of said Section 35, to the point of beginning, subject to highway right of way of record.*

AND

*The Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5th P.M., Franklin County, Iowa; EXCEPT Beginning at the center of Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5th P.M., Franklin County, Iowa; thence South 89°40' East 961.00 feet to an iron pin, thence South 29°06' West 527.05 feet to another iron pin, thence North 88°18' West 416.00 feet, thence South 121.88 feet, thence South 89°00' West 288.90 feet, thence North 580.70 feet along the west line of the Southeast Quarter of said Section Thirty-five (35) to the point of beginning.*

6. "Amended Area" means that portion of the City of Ackley, State of Iowa, included within the Original Area, the Amendment No. 1 Area, the Amendment No. 2 Area, the Amendment No. 1 to Amended and Restated Area, and the Amendment No. 2 to Amended and Restated Area, which Amended Area includes the lots and parcels located within the area legally described in Subsections 1-5 above.

**8.02 TAXES LEVIED.** The taxes levied on the taxable property in the Amended Area, legally described in Section 8.01 hereof, by and for the benefit of the State of Iowa, Counties of Hardin and Franklin, Iowa, AGWSR Community School District, and all other taxing districts from and after the effective date of Ordinance No. 460, shall be divided as hereinafter provided.

1. As to the Original Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Area upon the total sum of the assessed value of the taxable property in the Original Area as shown on the assessment roll as of January 1, 1987, being the first day of the calendar year preceding the effective date of Ordinance No. 314, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.

As to Amendment No. 1 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 1994, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 362.

As to Amendment No. 2 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 1996, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 376.

As to Amendment No. 1 to Amended and Restated Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2007, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 446.

As to Amendment No. 2 to Amended and Restated Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2013, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.

2. That portion of the taxes each year in excess of the base period taxes for the Amended Area, determined for each sub-area thereof as provided in Subsection 1 of this section, shall be allocated to and when collected be paid into the special tax increment fund previously established by the City of Ackley, State of Iowa, to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the *Code of Iowa*, incurred by the City of Ackley, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Area pursuant to the Urban Renewal Plan, as amended, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19 shall be collected against all taxable property within the Amended Area without any limitation as hereinabove provided.

3. Unless or until the total assessed valuation of the taxable property in the areas of the Amended Area exceeds the total assessed value of the taxable property in said areas shown by the assessment rolls referred to in Subsection 1, all of the taxes levied and collected upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

4. At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Ackley, State of Iowa, referred to in Subsection 2 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

5. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to continue the division of taxes from property within the Original Area under the provisions of Section 403.19 of the *Code of Iowa*, as authorized in Ordinance Nos. 314, 362, 376 and 446, and to fully implement the provisions of Section 403.19 of the *Code of Iowa* with respect to the division of taxes from property within the Amendment No. 1 Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the *Code of Iowa* with reference to the Amended Area and the territory contained therein.

**8.03 MARCH 2016 ADDITION TO THE ACKLEY URBAN RENEWAL AREA.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the March, 2016 Addition to the Ackley Urban Renewal Area of the City, each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City to finance projects in the such area.

1. Definitions. For use within this ordinance the following terms shall have the following meanings:

A. "Deleted Property" means the following described real property in the City of Ackley, Hardin County, Iowa:

*A tract of land commencing Thirty-five (35) feet West (W) of the South Quarter (S 1/4) Corner of Section Thirty-five (35), Township Ninety North (90 N), Range Nineteen (19), West of the 5th P.M., thence South (S) along the West (W) line of Franklin Street to the North line of Douglas Avenue, thence West along the North line of Douglas Avenue to the West line of Eleventh Street, thence South along the West line of Eleventh Street to the South line of Lincoln Avenue, thence East along the South line of Lincoln Avenue to the West line of Franklin Street, thence South along the West line of Franklin Street to the center of the main line of the Chicago Central Pacific Railroad track, thence Northeasterly (NE) along the center of the main line of said railroad track to the West line of Hardin Street, thence South along the West line of Hardin Street to the North line of Main Street, thence West along the North line of Main Street to the West line of State Street, thence South along the West line*

*of State Street to the North line of First Avenue, thence West along the North line of First Avenue extended to the center of the main line of the Chicago Central and Pacific Railroad track, thence Southwesterly (SW) along the center of the mainline of said railroad track to the East line of Fifteenth Street extended, thence North along the East line of Fifteenth Street to the South line of Lincoln Avenue, thence East along the South line of Lincoln Avenue to the East line of Thirteenth Street, thence North along the East line of Thirteenth Street to the North line of Douglas Avenue, thence West along the North line of Douglas Avenue to the East line of Seventeenth Street, thence North along the East line of Seventeenth Street to the South line of Section Thirty-five (35), Township Ninety North (90 N), Range Nineteen (19) West of the 5th P.M., thence along the South line of said section Thirty-five (35) to the point of beginning.*

*Except for the real property bearing Hardin County Property Tax Parcel Identification Number 891902104002 as of February 10, 2016.*

B. “2016 Urban Renewal Area Addition” means the March, 2016 Addition to the Ackley Urban Renewal Area of the City, the legal description of which is set out below, approved by resolution of the City Council on March 9, 2016:

Certain real property situated in the City of Ackley, Hardin County, State of Iowa, legally described as follows:

*Beginning at a point on the south line of the Section Thirty-five (35), Township Ninety (90) North, Range Nineteen (19) West of the 5th P.M., Franklin County, Iowa, 287.10' east of the South Quarter (S ¼ ) Corner of said section; thence north to the north line of Sherman Avenue located in the town of Ackley, Iowa; thence east along said north line to the northerly extension of the east line of Mitchell Street; thence South along said extension and the east line of Mitchell Street to the south line of Logan Avenue; thence southwesterly along the south line of Logan Avenue to the east line of Franklin Street; thence south along the east line of Franklin Street and the southerly extension of east line street to the centerline of Canadian National Railway; thence southwesterly along said railroad centerline to the west line of Franklin Street extended across said railroad; thence north along the said extension and the west line of Franklin Street to the south line of the Southwest Quarter (SW ¼ ) of said Section Thirty-five (35), thence east along the south line of said quarter section to the South Quarter (S ¼ ) Corner of said Section Thirty-five (35); thence south to a point on the south line of Sherman Avenue at the centerline of Franklin Street; thence east along the south line of Sherman Avenue to the east line of Franklin Street; thence south along the east line of Franklin Street to the Northwest corner of Lot 11 of Block 6 in the town of Ackley; thence east along the north line of said Lot 11 to the Northeast corner thereof, thence south along the east line of said Lot 11 to the Southeast corner thereof; thence south on an extension of the said east line of Lot 11 across an alley to a point on the north line of Lot 10 of said Block 6; thence west along the north Line of said Lot 10 to a point 70' east of the east line of Franklin Street; thence south to a point 70' east of the east*

*line of Franklin Street on the north line of Lot 8 of said Block 6; thence continuing south to point 15' south of the north line of said Lot 8 and 70' east of the east line of Franklin Street; thence east parallel to the north line of Lot 8 to the west line of Lot 3 of said Block 6; thence north along the west line of Lot 3 of to the Northwest corner of thereof; thence east along the north line of Lots 3, 2, and 1 of said Block 6 to the Northeast corner of said Lot 1; thence north along the west line of Cerro Gordo Street to a point 280' south of the south line of Sherman Avenue; thence east to a point on the east line of Cerro Gordo Street that is 280' south of the of the south line of Sherman Avenue, also being a point 50' south of the Northwest corner of Lot 6 of Block 5 to the town of Ackley; thence eat along a line 50' south and parallel with the north line of said Lot 6 to the west line of Lot 4 of Block 5; thence north along the west line of said Lot 4 to the Northwest corner thereof; thence east along the north line of said Lot 4 to the Northeast corner thereof; thence north along the east line of Lot 7 of Block 5 to the Northeast corner thereof; thence north across an alley to the Southwest corner of Lot 11 of Block 5; thence east along the south line of said Lot 11 to the Southeast corner thereof; thence north along the east line of said Lot 11 to the south line of Sherman Avenue; thence west along the south line of Sherman Avenue to a point directly south of the point of beginning; thence north to the point of beginning.*

AND

*Beginning at a point on the north line of Section Two (2), Township Eighty-nine (89) North, Range Nineteen (19) West of the 5<sup>th</sup> p.m., Hardin County, Iowa where the northerly extension of the west line of Franklin Street, located in the Burns and Fosters Addition to the town of Ackley, Iowa intersects said section line; thence west along said section line to a point where the northerly extension of the east line of 17<sup>th</sup> Street intersects said section line; thence south along said extension and the east line of said 17<sup>th</sup> Street to the north line of Douglas intersects said east line of 17<sup>th</sup> Street; thence east along the north line of Douglas Avenue to the east line of 13<sup>th</sup> Street; thence south along the east line of 13<sup>th</sup> Street to the south line of Lincoln Avenue; thence west along the south line of Lincoln Avenue to the east line of 15<sup>th</sup> Street; thence south along the east line of 15<sup>th</sup> Street to the easterly extension of the north line of the alley in Block 17 of said Burns and Fosters Addition; thence west along said alley extension to the west line of 15<sup>th</sup> Street; thence south along the west line of 15<sup>th</sup> Street and a southerly extension thereof to the south line of the Canadian National Railroad; thence northeasterly along the south line of said railroad to the south line of 1<sup>st</sup> Avenue; thence east through said Burns and Fosters addition, through the town of Ackley, along the south line of 1<sup>st</sup> Avenue to the east line of Butler Street; thence north along the east line of Butler Street to the north line of 1<sup>st</sup> Avenue; thence east along the north line of 1<sup>st</sup> Avenue to an extension of the west line of Blackhawk Street (formerly named First Street as platted in J.R. Robert's Addition to the town of Ackley); thence south along said street extension to the south line of 1<sup>st</sup> Avenue; thence east along the south line of 1<sup>st</sup> Avenue to the Northeast corner of said J.R. Robert's Addition; thence south along the east side of said addition*



*to the Southeast corner of Lot 9 in thereof; thence east along the north line of Second Avenue to the Northeast corner of Second Avenue as platted in Sunny Heights Addition to Ackley; thence south on the east line of Second Avenue as platted in said Sunny Heights Addition to the Northeast corner of Lot 4, Block 2 of Kurth's First Addition to Ackley; thence south along the east line of said Lot 4 to the south line of the Northwest Quarter (NW 1/4) of Section One (1), Township Eighty-nine (89) North, Range Nineteen (19) West of the 5<sup>th</sup> P.M. Hardin County, Iowa; thence east along said south line to the Southeast corner of the west 96 rods of the said Northwest Quarter (NW 1/4); thence north to the Southeast corner of South View Addition to Ackley; thence west along the south line of said South View Addition to the Southwest corner thereof; thence north along the west line and a northerly extension of the west line of South View Addition to a point on the north line of Main Street; thence west along the north line of Main Street to the Southeast corner of Block 2 of Muller Addition to Ackley; thence north along the east line of Muller Addition and a northerly extension of said east line to a point on the south line of Lot 4 Fairview Addition to Ackley; thence west along the south line of said Lot 4 to the Southeast corner of Outlot 2 of Grave's Addition to Ackley; thence west along the south line of said Outlot 2 to the Southwest corner thereof; thence west across Butler Street to the north alley line of Block 1, of the town of Ackley; thence west along the north alley line of said Block 1; thence continuing across Grundy Street on a line between the north alley lines of blocks 1 and 2 of the town of Ackley; thence west along the north alley line of said Block 2 and a westerly extension of said alley line to the west line of Hardin Street; thence north on the west line of Hardin Street and a northerly extension of said west line to the centerline of the Canadian National Railroad; thence southwesterly along said railroad centerline to the west line of Franklin Street extended south across said railroad; thence north along said extension and the west line of Franklin Street to the north line of Lincoln Avenue in said Burns and Fosters Addition; thence west along the north line of Lincoln Avenue to the east line of 11<sup>th</sup> Street; thence north along the East line of 11<sup>th</sup> Street to the south line of Douglas Avenue; thence east on the south line of Douglas Avenue to the west line of Franklin Street; thence north along the west line of Franklin Street and the extension thereof to the point of beginning.*

C. "Urban Renewal Area" means the entirety of the Ackley Urban Renewal Area, as amended from time to time.

2. The Deleted Property is hereby removed from the tax increment financing district for the Urban Renewal Area. No further division of property tax revenues as provided under Section 403.19 of the *Code of Iowa* shall be done with respect to the Deleted Property, unless and until such property is re-included in a tax increment district by action of the City Council.

3. Provisions for Division of Taxes Levied on Taxable Property in the 2016 Urban Renewal Area Addition. After the effective date of this ordinance, the taxes levied on the taxable property in the 2016 Urban Renewal Area Addition each year by and for the benefit of the State of Iowa, the City, the Counties and any school district or other taxing

district in which the 2016 Urban Renewal Area Addition is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2016 Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditors of Franklin and Hardin Counties the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (B) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2016 Urban Renewal Area Addition on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the 2016 Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the 2016 Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Subsection (A) of this section, all of the taxes levied and collected upon the taxable property in the 2016 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2016 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of taxes mentioned in Subsection (B) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal of and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of*

*Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

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

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## CHAPTER 10

# URBAN REVITALIZATION

**10.01 DESIGNATION OF REVITALIZATION AREA.** In accordance with Chapter 404 of the *Code of Iowa*, the following described area of the City is hereby designated as an Urban Revitalization Area.

*All real property situated within the incorporated municipal limits of the City of Ackley, Iowa, as of March 1, 2017.*

is hereby designated as the Ackley Urban Revitalization Area.

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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 and 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. Airport Board of Trustees
2. Ambulance Board of Trustees
3. Cemetery Board of Trustees
4. Tree Board
5. Historic Preservation Commission
6. Library Board of Trustees
7. Police Chief

**15.04 COMPENSATION.** The salary of the Mayor is \$2,580 per year, payable monthly.  
(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 terms of four years.

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

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

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

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

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, and 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 Attorney
2. City Clerk
3. Planning and Zoning Commission

**17.06 COMPENSATION.** The salary of each Council member is \$25.00 for each meeting of the Council attended, not to exceed \$625.00 per calendar year.  
*(Code of Iowa, Sec. 372.13[8])*

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## CHAPTER 18

# CITY CLERK

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

**18.07 Certification**  
**18.08 Records**  
**18.09 Attendance at Meetings**  
**18.10 Licenses and Permits**  
**18.11 Notification of Appointments**  
**18.12 Elections**

**18.01 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 of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

*(Section 18.03 – Ord. 530 – Sep. 24 Supp.)*

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

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

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

*(Code of Iowa, Sec. 362.3)*

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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 following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than 90 days before the date of the regular City election.

*(Code of Iowa, Sec. 376.6)*

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

*(Code of Iowa, Sec. 376.4)*

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

*(Code of Iowa, Sec. 376.4)*

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

*(Code of Iowa, Sec. 376.4)*

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than the day after the last day on which nomination petitions can be filed, and not later than 12:00 p.m. on that day.

*(Code of Iowa, Sec. 376.4)*

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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  
20.09 Representation of City Employees

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

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

**320.02 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])*

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

*(Code of Iowa, Sec. 670.8)*

## CHAPTER 21

# LIBRARY BOARD OF TRUSTEES

21.01 Public Library	21.07 Nonresident Use
21.02 Library Trustees	21.08 Expenditures
21.03 Qualifications of Trustees	21.09 Annual Report
21.04 Organization of the Board	21.10 Injury to Books or Property
21.05 Powers and Duties	21.11 Theft
21.06 Contracting with Other Libraries	21.12 Notice Posted

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

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

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

**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 Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

**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 Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, assistants, and employees

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

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

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

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

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

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

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

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

*(Code of Iowa, Ch. 661)*

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

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

**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 and 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 and 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

# PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission  
22.02 Term of Office  
22.03 Vacancies

22.04 Compensation  
22.05 Powers and Duties

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

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such

improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

## CHAPTER 23

# AIRPORT BOARD OF TRUSTEES

23.01 Establishment; Composition

23.02 Qualifications

23.03 Term of Office

23.04 Compensation

23.05 Duties

23.06 Claims and Liabilities

**23.01 ESTABLISHMENT; COMPOSITION.** There is established an Airport Board of Trustees to consist of five members who shall be appointed by the Mayor, subject to approval of the Council. In addition, the Council shall select one Council member to be a non-voting member of the Board.

**23.02 QUALIFICATIONS.** All members of the Board shall be residents of the City and shall be at least 18 years of age.

**23.03 TERM OF OFFICE.** Board members shall serve for staggered terms of five years. Vacancies shall be filled by appointment made by the Mayor, subject to approval by the Council. Board members appointed to fill a vacancy shall serve for the remainder of the term which was vacated. Any member of the Board who ceases to reside in the City shall be deemed to have resigned from the Board.

**23.04 COMPENSATION.** Board members shall receive no compensation for their services.

**23.05 DUTIES.** The Board shall have and exercise the following duties and powers:

1. To provide required and necessary communication with appropriate Federal aviation authorities concerning current conditions at the Ackley Municipal Airport consistent with Federal regulations;
2. To negotiate leases and contracts for the continued operation of the airport, subject to Council approval;
3. To review property and liability insurance coverage at the airport and make recommendations concerning the same to the Council;
4. To coordinate with City employees necessary mowing and snowplowing;
5. To purchase routine supplies and small equipment and make routine repairs in accordance with the airport budget; however, no expenditures shall exceed \$100.00 without prior Council approval;
6. To collect and deliver to the Clerk all fees, rents and other revenue generated by the use of airport facilities, except sale of fuel not purchased with municipal funds;
7. To accept gifts and donations of cash, goods or services in the name of the Ackley Municipal Airport and to use or expend the same for improving the Ackley Municipal Airport;
8. To submit to the Clerk a proposed budget request for the next fiscal year;
9. To keep a record of all the Board's proceedings and to appoint a Secretary to the Board;

10. To submit to the Council a written report on the operation and condition of the Ackley Municipal Airport at least quarterly. Said report shall address general operations, needed repairs and equipment, current budget balance, state of hangar rentals, status of mowing or snow-plowing operations, and such other information as the Board may deem appropriate in order to keep the Council fully informed about the Ackley Municipal Airport;

11. To make and establish, amend, modify or repeal rules and regulations for use of the airport and hangar not inconsistent with ordinances of the City and other applicable law.

**23.06 CLAIMS AND LIABILITIES.** All claims in behalf of the Ackley Municipal Airport and all liabilities of the Ackley Municipal Airport shall be made in the name of the City.

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## CHAPTER 24

# AMBULANCE SERVICE BOARD OF TRUSTEES

24.01 Establishment  
24.02 Board of Trustees

24.03 Claims and Liabilities  
24.04 Attendants

**24.01 ESTABLISHMENT.** There is established a public ambulance service to be known as the Ackley Volunteer Ambulance Service (hereinafter referred to as the Ambulance Service.)

### **24.02 BOARD OF TRUSTEES.**

1. Membership. The Board of Trustees of the Ambulance Service (hereinafter referred to as the Board) shall consist of five members. The Board members shall include the President of the Ambulance Service and one attendant. The remaining Board members shall be individuals who do not serve in the Ambulance Service. All Board members other than the President of the Ambulance Service shall be appointed by the Mayor with the approval of the Council.

2. Qualifications. All members of the Board shall be residents of the City and shall be at least 18 years of age.

3. Term of Office. All appointments to the Board other than that held by the President of the Ambulance Service shall be for six years, except to fill vacancies. Appointments shall be staggered. Each President's term shall commence upon assuming office.

4. Vacancies. The position of any Trustee shall be vacant if said Trustee moves permanently from the City or is absent from three consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled by appointment by the Mayor, with approval of the Council, and the new Trustee shall fill out the unexpired term for which the appointment is made.

5. Compensation. Trustees shall receive no compensation for their service.

6. Duties. The Board shall have and exercise the following duties:

A. To establish requirements and qualifications for attendants of the Ambulance Service.

B. To remove as an attendant, or expel from membership of the Ambulance Service any attendant or member who fails to carry out his or her responsibilities as an attendant or on-call attendant in a prudent or conscientious manner and thereby showing carelessness or disregard of the life, health, or well-being of any person who may be in need of assistance from the Ambulance Service. Nothing in this section shall prevent the Board from establishing procedures for suspending an attendant or member until formal action by the Board. Appeal from the Board shall be to the Council.

C. To recommend to the Council the compensation to be received by attendants.

D. To recommend to the Council the fees to be charged for individuals for the use of the Ambulance Service.

- E. To keep a record of all its proceedings, and appoint a member of the Board as Secretary of the Board.
- F. To maintain a roster of all attendants and to remove from the roster all attendants who fail to meet the qualifications established by the Board, including training qualifications and participation in Ambulance Service activities.
- G. To serve as a place for arbitration for the crew as needed.

**24.03 CLAIMS AND LIABILITIES.** All claims in behalf of the Ambulance Service and all liabilities of the Ambulance Service shall be made in the name of the City.

**24.04 ATTENDANTS.** For purposes of this chapter, the words “attendant” or “attendants” shall mean any medical doctor, licensed nurse, Emergency Medical Technician (EMT), ambulance driver, or paramedic formally approved or otherwise authorized by the Board to provide service coverage as a recognized volunteer or employee of the Ambulance Service. For purposes of this chapter, an “attendant” is also a “member” of the Ambulance Service and no person shall be a “member” of the Ambulance Service who is not also an “attendant.”

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## CHAPTER 26

# TREE BOARD

**26.01 Purpose**  
**26.02 Establishment**  
**26.03 Terms of Office**

**26.04 Duties and Responsibilities**  
**26.05 Operation**

**26.01 PURPOSE.** It is the purpose of this chapter to promote and protect the public health, safety and general welfare of the City by establishing a tree board to oversee tree planting and tree maintenance needs of City property, and to promote citizen involvement and education to enhance the City's community tree resources.

**26.02 ESTABLISHMENT.** There is hereby created and established a City Tree Board of the City, which shall consist of five members, citizens and residents of the City of Ackley, who shall be appointed by the Mayor with the approval of the Council. Members of the City Tree Board shall serve without compensation.

**26.03 TERMS OF OFFICE.** Tree Board members shall be appointed for staggered terms of three years. In the event that a vacancy occurs during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

**26.04 DUTIES AND RESPONSIBILITIES.** It shall be the responsibility of the Tree Board to study, investigate, counsel and develop a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees in public areas. Such a plan will be presented to the Council and upon its acceptance and approval shall constitute the official comprehensive tree plan for the City. The Board shall review annually and update if needed the comprehensive tree plan. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter or question within the scope of its work.

**26.05 OPERATION.** The Board shall choose its own officers, make rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

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## CHAPTER 27

# HISTORIC PRESERVATION COMMISSION

### 27.01 Purpose and Intent

### 27.02 Definitions

### 27.03 Structure of the Commission

### 27.04 Powers of the Commission

**27.01 PURPOSE AND INTENT.** The purposes of this chapter are to:

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement and perpetuation of sites and districts of historical and cultural significance;
2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;
3. Stabilize and improve property values;
4. Foster pride in the legacy of beauty and achievements of the past;
5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;
6. Strengthen the economy of the City;
7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

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

1. "Commission" means the Ackley Historic Preservation Commission, as established by this chapter.
2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:
  - A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or
  - C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or
  - D. Is associated with the lives of persons significant in our past; or
  - E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. “Historic site” means a structure or building which:
  - A. Is associated with events that have made a significant contribution to the broad patterns of our history; or
  - B. Is associated with the lives of persons significant in our past; or
  - C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - D. Has yielded, or may be likely to yield, information important in prehistory or history.

### **27.03 STRUCTURE OF COMMISSION.**

1. The Commission consists of six members who are residents of the City. In addition, the Commission may have up to three non-voting members that do not need to be residents of the City.
2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, City planning, building rehabilitation, conservation in general or real estate.
3. The Commission members are appointed for staggered terms of three years. Members may serve for more than one term. Each member shall serve until the appointment of a successor.
4. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.
5. Members shall serve without compensation.
6. A simple majority of the Commission shall constitute a quorum for the transaction of business.
7. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission’s proceedings.
8. The Commission shall meet at least three times a year.

### **27.04 POWERS OF THE COMMISSION.**

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon a petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.
2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.

3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.
4. In addition to those duties and powers specified above, the Commission may, with Council approval,
  - A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;
  - B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;
  - C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission;
  - D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
  - E. Contract with State or Federal government or other organizations;
  - F. Cooperate with Federal, State and local governments in the pursuance of the objectives of historic preservation;
  - G. Provide information for the purpose of historic preservation to the Council; and
  - H. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

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## CHAPTER 28

# CEMETERY BOARD OF TRUSTEES

28.01 Establishment  
28.02 Qualifications  
28.03 Term of Office

28.04 Compensation  
28.05 Powers and Duties  
28.06 Expenditures

**28.01 ESTABLISHMENT.** There is hereby established the Oakwood Cemetery Board of Trustees. The Board of Trustees shall consist of seven members. All Board members shall be appointed by the Mayor with the approval of the Council.

**28.02 QUALIFICATIONS.** All of the members of the Board shall be residents of the City and shall be 18 years of age or older.

**28.03 TERM OF OFFICE.**

1. The terms of office of the Board shall commence immediately upon appointment. All appointments shall be staggered.
2. After the initial term, all appointments to the Board shall be for a term of five years.
3. Vacancies on the Board shall be filled by the Mayor, subject to approval by the Council. Board members appointed to fill a vacancy shall be for the remainder of the term which was vacated.
4. Any member who ceases to reside in the City shall be deemed to have resigned from the Board.

**28.04 COMPENSATION.** Board members shall receive no compensation for their services.

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

1. Officers. To elect from its members a Chairperson and such other officers it deems necessary.
2. Cemetery Property. To plan, maintain and to have control and supervision of the Oakwood Cemetery and all property located thereon and needed or used on the maintenance and operation of the cemetery.
3. Reports to Council. To make written reports to the Council of its activities from time to time as it deems advisable and upon Council request. Its revenues and expenditures shall be reported by the Clerk in the manner of other departmental revenues and expenditures.
4. Rules and Regulations. To make rules and regulations for the use of the cemetery and for the activities normally carried on at the cemetery, subject to the

1. approval of the rules by the Council. Such rules shall either be posted at the facility or otherwise publicized in a manner to provide adequate notice to the using public.
5. Gifts. To accept gifts of real property, personal property and bequests, including trust funds; and to expend the funds received from such gifts or bequests as may be given by the donor or as may be decided by the Board.
6. Sale of Lots. The Board shall have the exclusive power to sell lots, or parts of lots, in said cemeteries under its control and shall have the right to delegate and confer such power upon any person, and upon such sale there shall be issued to the purchaser a certificate giving the correct description of the property sold to such person and the amount to be paid therefor, and upon said certificate being filed with a designated City Official, and payment to the Official of the amount shown thereby, it shall be the duty of the Official to make, execute and deliver to said purchaser a deed conveying said premises, and money so received by the Official shall be paid over to the City Treasurer for deposit in the proper cemetery funds within 10 days of receipt thereof. All of said deeds shall be signed by the Mayor and countersigned by the Clerk.
7. Perpetual Care. A portion of the sale price of lots as specified by the rules and regulations established by the Board shall be set aside and deposited in the perpetual care endowment fund of the cemetery. The Board, by resolution, shall also receive and expend all moneys and property donated or bequeathed for perpetual care. The assets of the perpetual care fund shall be invested by the Council as permitted by State law. The Board shall use the income from such investments in caring for the property of the donor or lot owner or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of a cemetery lot.
8. Records. To keep a record of all its proceedings.

**28.06 EXPENDITURES.** All expenditures of the Board shall be pre-approved by the Council and all bills shall be submitted to the Council for payment.

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## CHAPTER 30

# POLICE DEPARTMENT

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

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

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

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

**30.03 PEACE OFFICER QUALIFICATIONS.** In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.  
*(Code of Iowa, Sec. 80B.11)*

**30.04 REQUIRED TRAINING.** All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.  
*(Code of Iowa, Sec. 80B.11[2])*  
*(IAC, 501-3 and 501-8)*

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

**30.06 POLICE CHIEF APPOINTED.** The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.  
*(Code of Iowa, Sec. 372.4)*

**30.07 POWERS AND DUTIES OF POLICE CHIEF.** The Police Chief has the following powers and duties subject to the approval of the Council.  
*(Code of Iowa, Sec. 372.13[4])*

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

*(Code of Iowa, Sec. 321.266)*

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

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

**30.09 SUMMONING AID.** Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.  
(Code of Iowa, Sec. 804.17)

**30.10 TAKING WEAPONS.** Any person who makes an arrest may take from the person arrested all items that are capable of causing bodily harm which the arrested person may have within such person's control, to be disposed of according to law.  
(Code of Iowa, Sec. 804.18)

**30.11 CONTRACT LAW ENFORCEMENT.** In lieu of the appointment of a Police Chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.  
(Code of Iowa, Sec. 28E.30)

## CHAPTER 35

# FIRE DEPARTMENT

35.01 Establishment and Purpose  
35.02 Organization  
35.03 Application for Membership  
35.04 Training  
35.05 Compensation  
35.06 Election of Officers  
35.07 Duties of Fire Chief

35.08 Obedience to Fire Chief  
35.09 Constitution  
35.10 Accidental Injury Insurance  
35.11 Liability Insurance  
35.12 Calls Outside City  
35.13 Mutual Aid  
35.14 Authority to Cite Violations

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

*(Code of Iowa, Sec. 364.16)*

**35.02 ORGANIZATION.** The department shall consist of one Chief of the Fire Department, one or two Assistant Chiefs and not less than 15 or more than 30 member firefighters. All officers and members of the Fire Department shall reside within the City or within a two-mile radius of the City limits.

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

**35.03 APPLICATION FOR MEMBERSHIP.** Applications for membership in the Fire Department shall be in writing and shall be submitted to the Fire Chief for consideration by the department in accordance with the rules and regulations of the department. Upon approval of the department, the applicant shall become a member by signing the membership roll.

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin, and circumstances of fires.

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

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

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

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

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

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

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

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

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

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

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

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

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

**35.14 AUTHORITY TO CITE VIOLATIONS.** Fire officials acting under the authority of Chapter 10A, Subchapter V, Part 2 of the *Code of Iowa*, may issue citations in accordance with Chapter 805 of the *Code of Iowa*, for violations of Chapter 10A, Subchapter V, Part 2 of the *Code of Iowa* or a violation of a local fire safety code. *(Ord. 531 – Sep. 24 Supp.)*

*(Code of Iowa, Sec. 100.41)*

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## CHAPTER 36

# HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**36.05 NOTIFICATIONS.**

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

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

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

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



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

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## CHAPTER 37

# ACKLEY VOLUNTEER AMBULANCE SERVICE

**37.01 Purpose**

**37.02 Composition**

**37.03 Application for Membership**

**37.04 Training**

**37.05 Compensation**

**37.06 Officers**

**37.07 Duties and Obligations of the Crew Members**

**37.08 Duties and Obligations of the City of Ackley**

**37.01 PURPOSE.** The Ackley Volunteer Ambulance Service (AVAS) exists to protect lives and respond to the emergency needs of citizens in the area of Ackley and surrounding areas as established by Hardin County 911 Board.

**37.02 COMPOSITION.** AVAS members are voluntary members and consist of EMT's, Drivers, and Advanced medical personal as available. The officers are chosen by the core group of members. AVAS officers shall consist of one President, Vice President, Secretary, Treasurer.

**37.03 APPLICATION FOR MEMBERSHIP.** Applications for membership for AVAS shall be in writing. Application forms are available from the President or the staff at City Hall. Applications shall be considered by the current membership. Background checks and certification verification will be done. Upon approval, the applicant shall become a member.

**37.04 TRAINING.** Training will be provided at monthly meetings. These trainings will focus on certification needs and requested training by members. With prior approval training may be paid for by the City of Ackley.

**37.05 COMPENSATION.** Compensation shall be determined by resolution by the City Council.

**37.06 OFFICERS.** The officers are chosen by the core group of members. AVAS officers shall consist of one President, Vice President, Secretary, Treasurer.

**37.07 DUTIES AND OBLIGATIONS OF THE CREW MEMBERS.**

1. Provide staffing for 24-hour service coverage in compliance with State of Iowa Protocols.
2. Maintain continuing education requirements mandated by the State.
3. Collect and report all information required for billing of ambulance calls and ensure all required forms are fully completed for each run.
4. Check ambulance after each run and replace any used supplies. Report any problems with equipment or the vehicle to the necessary personnel.
5. Maintain and establish, amend, modify or repeal policies and procedures as mandated by the State Level of Care and Medical Director.
6. Submit a report monthly to the City Council to include activities, number of runs and any other information deemed relevant to the operation of the AVAS.

7. Take care of all equipment and vehicles associated with the AVAS. To purchase supplies and medications as necessary and provide maintenance and records of maintenance on all vehicles.
10. Maintain a roster of all members and remove any said member(s) who fail to meet the qualifications, including training and participation in AVAS activities.
11. Provide uniforms and protective gear for all members

**37.08 DUTIES AND OBLIGATIONS OF THE CITY OF ACKLEY.**

1. Provide basic equipment and vehicles.
2. Provide a building suitable to house the vehicles and provide the crew space for meetings and supply storage.
3. Provide uniforms and protective gear for all members.
4. All claims on behalf of the AVAS and all liability shall be made in the name of the City.
5. Claim payment shall be made to the City and the City shall be responsible for the final collection of all delinquent accounts.

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## CHAPTER 40

### PUBLIC PEACE

40.01 Assault  
40.02 Harassment

40.03 Disorderly Conduct  
40.05 Failure to Disperse

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. “Deface” means to intentionally mar the external appearance.

B. “Defile” means to intentionally make physically unclean.

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

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

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

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

*(Code of Iowa, Sec. 723.5)*

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

*(Code of Iowa, Sec. 723.3)*

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## CHAPTER 41

# PUBLIC HEALTH AND SAFETY

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

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

*(Code of Iowa, Sec. 727.1)*

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

*(Code of Iowa, Sec. 718.6)*

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

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

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

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

*(Code of Iowa, Sec. 719.2)*

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

*(Code of Iowa, Sec. 718.4)*

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

*(Code of Iowa, Sec. 719.1)*

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

*(Code of Iowa, Sec. 708.12)*

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

*(Code of Iowa, Sec. 727.3)*

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

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

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

**41.11 DISCHARGING WEAPONS.**

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

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

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

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

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

**41.14 FIREWORKS.**

*(Code of Iowa, Sec. 727.2)*

1. Definitions. For purposes of this section:
  - 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 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:

- (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.
- (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.
- (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

C. It is unlawful for any person to use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.

4. Novelties. This section does not apply to novelties.

**41.15 LIMITATION ON OCCUPANCY OF RESIDENCES.** No person shall allow or permit any building or portion thereof to be used as a dwelling unit unless said building or portion thereof has at least 250 square feet of living space for one individual plus 150 additional square feet for each additional resident. This provision does not apply to nursing or convalescent homes or to motels. For the purpose of this section, a “dwelling unit” means one or more rooms owned or lawfully occupied by one or more persons as a home or residence for living or sleeping purposes. The amount of square footage required includes the total square footage within the exterior walls of the dwelling unit and does not include outdoor or screened porches, patios, attached or detached garages or storage sheds.

1. **41.16 FAILURE TO ASSIST.** A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

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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 43

# DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery, or Offering For Sale

43.07 Advertisement of Drug Paraphernalia

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

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

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

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

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

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

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

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

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

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

**43.07 ADVERTISEMENT OF DRUG PARAPHERNALIA.** It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

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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 retail alcohol licensee, or wine or beer permittee under State laws.

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

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

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

*(Section 45.01 – Ord. 526 – Sep. 24 Supp.)*

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

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

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

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

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

D. “School” means a public or private school or that portion of a public or private school 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 retail alcohol license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.

*(Ord. 526 – Sep. 24 Supp.)*

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

*(Code of Iowa, Sec. 123.46)*

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

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

*(Code of Iowa, Sec. 123.47)*



## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

**46.01 CURFEW.** 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.
- G. “Unemancipated” means unmarried and/or still under the custody or control of a responsible adult.
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 10:30 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 12:00 midnight 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 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco

products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

## CHAPTER 47

# PARK REGULATIONS

47.01 Purpose

47.02 Use of Drives Required

47.03 Fires

47.04 Littering

47.05 Camping

47.06 Alcoholic Beverages in Parks

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

*(Code of Iowa, Sec. 364.12)*

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

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

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

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

**47.06 ALCOHOLIC BEVERAGES IN PARKS.** No person shall possess or consume beer, wine, liquor or any other alcoholic beverages in Victory Park, City Park, Limrose Park, Otter Creek Park or the swimming pool facilities. However, the prohibition of the use or consumption of beer in Victory Park, City Park, Limrose Park, Otter Creek Park, the swimming pool facilities or on specific City streets may be exempted when permitted by resolution of the City Council. The exemption of the prohibition shall not affect the enforcement of the provisions of this section as it relates to the use or consumption of alcoholic beverages other than beer.

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## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

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

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

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

*(Code of Iowa, Sec. 657.1)*

**50.02 NUISANCES ENUMERATED.** The following subsections include, but do not limit, the conditions 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. Nuisance Animals or Insects. Any building which has become the habitat for rats, mice or snakes, or any other vermin or insects.

**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. Grass Mowing **(See Chapter 52)**
3. Dangerous Buildings **(See Chapter 145)**
4. Storage and Disposal of Solid Waste **(See Chapter 105)**
5. Trees **(See Chapter 151)**

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

*(Code of Iowa, Sec. 657.3)*

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †

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



- 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.
  - 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 Subsections 1 and 2, and the hearing as provided in Subsection 3.  
*(Code of Iowa, Sec. 364.12[3h])*
  5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.  
*(Code of Iowa, Sec. 364.12[3h])*
  6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.  
*(Code of Iowa, Sec. 364.12[3h])*
  7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.  
*(Code of Iowa, Sec. 364.13)*
  8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

**50.08 ADULT ESTABLISHMENTS.**

1. As used in this section, “adult establishment” means any business that provides nude or topless dancing or operates any other adult-oriented business.
2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:
  - A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.
  - B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.
  - C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.
3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

*(Code of Iowa, Sec. 657.12)*

*(Section 50.08 – Ord. 532 – Sep. 24 Supp.)*

## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

### 51.05 Enforcement

**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. Such defective or obsolete condition may include any vehicle with a broken or cracked windshield, window, headlight, taillight, or any other cracked or broken glass, or a broken or loose part, including a fender, door, bumper, hood, trunk top, tail pipe or steering wheel.

G. Operation. Any vehicle which has not been operated for a continuous period of 30 days or more. “Operated” means driving in a legal manner, on a public highway for a distance of at least one City block.

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

3. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, except devices moved by human

power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

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

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

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

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

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

**51.05 ENFORCEMENT.**

1. Citation. Upon discovery of any violation of this chapter the City may issue a citation in the amount of \$100.00 per incident. Each day said violation continues shall be considered a separate incident. Every junk vehicle may be subject to a separate scheduled civil penalty.
2. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the City Council by issuing a written request for such a hearing to the City Clerk at City Hall within seven days of the date of the citation. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the City Council a written request for the filing of a municipal infraction in court must be delivered to the City Clerk at City Hall within 15 days after the hearing held before the City Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have violated Chapter 51 of the City of Ackley Ordinances.
3. If a person subject to a scheduled civil penalty under this section does not request a hearing before the City Council or said person does not request the filing of a municipal infraction in court after the hearing held before the City Council said person will be deemed to have waived his or her right to dispute the finding of a violation and a scheduled civil penalty imposed under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.

4. In addition to the foregoing, upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City may, within five days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

5. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code or regulation issued thereunder if criminal penalties are also applicable for the violation, nor does this section preclude or limit the authority of the City to enforce the provisions of this Code by criminal sanctions of other lawful means, including but not limited to alternative reliefs or remedies contemplated by the Code or State Law.

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## CHAPTER 52

# GRASS MOWING

### 52.01 Purpose

### 52.02 Duty to Cut and Mow Lawns and Lots

### 52.03 Cutting and Mowing by City

### 52.04 Notice

### 52.05 Additional Violation

**52.01 PURPOSE.** The purpose of this chapter is to provide for the cutting and mowing of all lawns and lots so as to beautify and preserve the appearance of the City and to provide for such cutting and mowing by the City and for the assessment of the cost and expenses thereof to the property in the event of the owners' failure to comply after due notice.

**52.02 DUTY TO CUT AND MOW LAWNS AND LOTS.** The owner of any property used primarily for residential, educational, religious, recreational, commercial or governmental purposes shall cut and mow all lawns and lots so that all plant growth, other than trees, shrubs and other cultivated or domesticated plants shall be less than 10 inches at all times.

**52.03 CUTTING AND MOWING BY CITY.** If a property owner refuses or fails to cut and mow lawn and lots, the Council may require said work to be done and the cost and expenses thereof shall be assessed to the property owner after due notice is given. The amount of such assessment shall be certified to the County Treasurer as provided by law and the same shall be collected with and in the same manner as general property taxes.

**52.04 NOTICE.** Notice of the action of the Council to provide for cutting and mowing lawns and lots shall be served on the property owner directing said property owner to cut or mow such lawns and lots within a specified time, either personally or by mailing a notice to the owner by certified mail, return receipt requested, to the last known address of the owner.

**52.05 ADDITIONAL VIOLATION.** Any property owner who violates the provisions of this chapter will be given one notice per summer and the City will be authorized to respond to additional violations without additional written notice being given.

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large
55.05 Livestock	55.14 Number of Animals Restricted
55.06 At Large Prohibited	55.15 Pet Awards Prohibited
55.07 Damage or Interference	55.16 Tampering With A Rabies Vaccination Tag
55.08 Annoyance or Disturbance	55.17 Tampering With An Electronic Handling Device
55.09 Removal of Excrement Required	

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

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

*(Code of Iowa, Sec. 162.2)*

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

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

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

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

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

7. "Fair" means any of the following:

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 717.1)*

11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.

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

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

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

*(Code of Iowa, Sec. 162.2)*

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

*(Code of Iowa, Sec. 162.2)*

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

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

## **55.02 ANIMAL NEGLECT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 717.2)*

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

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

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

**55.05 LIVESTOCK.** It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations. The provisions of this section do not apply to horses if, and only if, all of the following conditions are met:

1. The horses are held strictly for pleasure or riding purposes and not for commercial purposes. Horses held for draft, breeding or trading purposes, whether or not any gain or benefit is realized, shall be considered as held for commercial purposes, and
2. Not more than five horses are held by the members of any one household. "Household" is defined as any person or group of persons living in a separate dwelling or apartment, and
3. The horses are kept in a fenced-in area consisting of at least thirty thousand contiguous square feet, or a total of ten thousand contiguous square feet for each horse, whichever is the greater requirement. For purposes of this subsection, only areas regularly used for the keeping of horses shall be used in computing the minimum area required by this subsection, and
4. The horses do not otherwise constitute a nuisance.

**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 REMOVAL OF EXCREMENT REQUIRED.** The owner of any animal is responsible for the removal and disposal of excrement of such animal on public property or property not owned by the owner of the animal. Failure to remove such excrement within five minutes of deposit shall constitute a violation of this provision.

**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 AT LARGE.** Animals found at large in violation of this chapter, 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.

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

**55.14 NUMBER OF ANIMALS RESTRICTED.** No person or persons combined shall own, possess or keep within the City more than three animals, including dogs, over the age of six months in any one household. Persons who owned, possessed or kept more than three animals over the age of six months per household on May 30, 2001, shall be permitted to continue to own, possess or keep those animals only, but shall not be permitted to replace an animal which dies, is sold, transferred or otherwise disposed of until the total number of animals per household is decreased to three. The provisions of this section do not apply to a person who operates a commercial kennel as a bona fide business with the intent to make a profit.

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

*(Code of Iowa, Sec. 351.45)*

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

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

*(Code of Iowa, Sec. 351.46)*

- 1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
  - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
  - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
- 2. This section shall not apply to an act taken by any of the following:
  - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

- B. A peace officer.
- C. A veterinarian.
- D. An animal shelter or pound.

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## CHAPTER 56

### LICENSING OF DOGS

56.01 License Required  
56.02 Application by Owner  
56.03 Renewal of License  
56.04 Form of Application  
56.05 Fee  
56.06 Tag  
56.07 Use of Tag  
56.08 Immunization

56.09 Duration of License  
56.10 Transfer on Change of Ownership  
56.11 Transfer on Change of Residence  
56.12 Fee on Transfer  
56.13 Tag Not Transferable  
56.14 Duplicate Tag  
56.15 Delinquency  
56.16 Record Book

**56.01 LICENSE REQUIRED.** The owners of all dogs four months old or over, except dogs kept in State or Federal licensed kennels and not allowed to run at large, shall biannually obtain a license, as provided in this chapter.

**56.02 APPLICATION BY OWNER.** The owner of a dog for which a license is required shall apply to the Clerk for a license for each dog owned within 60 days of the date said dog reaches the age of four months or the date that the dog is brought within the City limits.

**56.03 RENEWAL OF LICENSE.** An application for renewal of the license shall be made on or before the second January 1 following the issuance of the prior license.

**56.04 FORM OF APPLICATION.** The application shall be in writing on blanks provided by the Clerk and shall state the breed, sex, age, color, markings and name, if any, of the dog, and the address of the owner, and be signed by the owner. Such application shall also state the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.

**56.05 FEE.** The license fee shall be set by the Council from time to time by resolution. The fee shall accompany the application.

**56.06 TAG.** The Clerk shall, upon receipt of the application, deliver or mail to the applicant a license which shall be in the form of a metal tag stamped as follows:

1. Year in which issued.
2. Name of City.
3. Serial number as shown by the record book in the office of the Clerk.

**56.07 USE OF TAG.** Said tag shall be attached by the owner to a substantial collar and, during the term of the license, shall be at all times kept on the dog for which the license is issued. Upon the expiration of the license the owner shall remove said tag from the dog.

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

**56.09 DURATION OF LICENSE.** All licenses shall expire on the second January 1 following the issuance of the prior license.

**56.10 TRANSFER ON CHANGE OF OWNERSHIP.** When the permanent ownership of a dog is transferred, the license may be transferred by the Clerk by notation on the license record, giving name and address of the new owner.

**56.11 TRANSFER ON CHANGE OF RESIDENCE.** When a dog licensed in another jurisdiction is permanently transferred to the City, the owner shall surrender the original license tag to the Clerk. The Clerk shall preserve the surrendered tag and, without license fee, issue a new license tag. The Clerk shall note on the license record the fact that the newly issued license tag is issued to effect a transfer of, and is in lieu of, such surrendered license tag.

**56.12 FEE ON TRANSFER.** The Clerk, on making any transfer, shall collect a fee, to be determined by the Council, and set by a fee schedule resolution.

**56.13 TAG NOT TRANSFERABLE.** A license tag issued for one dog shall not be transferable to another dog.

**56.14 DUPLICATE TAG.** Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag for a fee, to be determined by Council, and set by a fee schedule resolution. The Clerk shall enter in the license record the new number assigned.

**56.15 DELINQUENCY.** All license fees shall become delinquent 60 days after the date the dog was required to be licensed or by the expiration date of a prior license, and a penalty of \$1.00 shall be added to each unpaid license on and after said date.

**56.16 RECORD BOOK.** The Clerk shall keep a book to be known as the record of licenses, which shall show:

1. The serial number and date of each application for a license.
2. The description of the dog as specified in the application, together with the name of the owner of said dog.
3. The date when each license tag is issued and the serial number of such tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.
4. The amount of all fees, licenses, penalties and costs paid to the Clerk.
5. Such other data as the law may require.

## CHAPTER 57

# VICIOUS DOGS

57.01 Definition

57.02 Keeping of Vicious Dogs

57.03 Confinement

57.04 Muzzling Requirement

57.05 Off Premises

57.06 Impounding

**57.01 DEFINITION.** For the purpose of this chapter, a “vicious dog” means:

1. Any dog with a known propensity, tendency or disposition to attack, unprovoked, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury or to otherwise endanger their safety; or
2. Any dog which has attacked a human being or domestic animal without provocation.

**57.02 KEEPING OF VICIOUS DOGS.** No person owning, possessing, harboring or having the care of a vicious dog shall permit such animal to go unconfined upon the premises of such person or permit the dog to go beyond the premises unless the dog is securely leashed and muzzled.

**57.03 CONFINEMENT.** A vicious dog shall be confined as follows:

1. Securely confined in a dwelling house; or
2. Completely enclosed in a locked enclosed fence, pen or other structure having a height of at least six feet; such pen or structure must have secure sides which are imbedded into the ground no less than one foot if the bottom of the structure is not connected to the structure; or
3. If the fence, pen or structure is less than six feet in height, it must have a secure top in addition to being securely imbedded as described in subsection two above.

**57.04 MUZZLING REQUIREMENT.** A vicious dog, when outside its confinement, shall at all times be muzzled except when shown in an American Kennel Club show or a show sanctioned by the American Kennel Club, or when securely confined in a private vehicle and inaccessible to others than those within the vehicle.

**57.05 OFF PREMISES.** A vicious dog, when off premises, must be accompanied by and obedient to the commands of the owner or competent responsible person and on a leash, cord or chain or other similar restraint that does not exceed six feet in length and muzzled.

**57.06 IMPOUNDING.** A police officer may impound any vicious dog which is not being kept and controlled as required by this chapter, at the expense of the owner or other caretaker of such dog, until the owner or other caretaker of the dog agrees to adhere to the provisions of this chapter. This is in addition to any penalty which may be imposed.

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## CHAPTER 58

# DANGEROUS ANIMALS

### 58.01 Definition

### 58.02 Keeping of Dangerous Animals Prohibited

### 58.03 Keeping of Dangerous Animals

**58.01 DEFINITION.** “Dangerous animal” means (i) any animal or species of animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having tendencies as a species to do so; (ii) any animal declared to be dangerous by the City Council; and (iii) the following animals, which are deemed to be dangerous animals, but not limited to:

- A. Lions, tigers, jaguars, leopards, cougars, lynx, ocelots and bobcats;
- B. Bears;
- C. Alligators and crocodiles;
- D. All venomous and constricting snakes;
- E. Wolves and foxes;
- F. Badgers, wolverines and weasels.
- G. Any animal which has attacked or bitten any person without provocation, or which has attacked or bitten any domestic animal or fowl on two or more occasions within a twelve-month period.

**58.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED.** No person shall keep, shelter or harbor any dangerous animal as a pet, guardian, or for any other purpose, within the City, except in the following circumstances:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, museum or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, show or licensed pet shop;
3. The keeping of dangerous animals in a bona fide licensed veterinary hospital for treatment;
4. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources pursuant to Chapters 481A and 481B of the *Code of Iowa*.

### 58.03 KEEPING OF DANGEROUS ANIMALS.

1. Every person owning, keeping, sheltering or harboring a dangerous animal pursuant to Section 58.02 shall report such fact to the Police Chief, together with the following information:
  - A. The species name of each animal;

- B. The number of such animals of each such species kept on the premises;
  - C. A physical description of each such animal, including any pet names to which it might respond;
  - D. The location of such animal or animals within the City, including the location of the cage or place of confinement upon or in said premises where in the animal or animals are kept;
  - E. In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species.
2. Every person keeping, sheltering or harboring a dangerous animal shall at all times keep such animals securely confined within a cage or other enclosure.
  3. Every person owning, keeping or harboring a poisonous dangerous animal shall be required to keep ten doses of anti-venom on hand and current at all times.
  4. No person owning, keeping, sheltering or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way or the property of another, except when such animal is being transported while caged or confined.
  5. It is the owner's responsibility to notify the Police Department immediately in the event that a dangerous animal has escaped and is at large.
  6. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to life or property, such animal may, in the discretion of the Police Chief, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

[The next page is 329]

## 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

**60.01 TITLE.** Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Ackley 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 hereby adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

1. "Business District" means all that portion of the City included in the C-2 Central Business Commercial District as designated on the Official Zoning Map.

2. "MPH" means miles per hour.

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

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

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

6. "Pedestrian" means a person afoot or a person using a pedestrian conveyance.  
(Code of Iowa, Sec. 321.1(51))

7. "Pedestrian conveyance" means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Section 60.02 – Ord. 533 – Sep. 24 Supp.)*

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

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

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

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



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

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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**CHAPTER 61**  
**TRAFFIC CONTROL DEVICES**

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

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

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

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

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

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

54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.306 – Roadways laned for traffic.
61. Section 321.307 – Following too closely.
62. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
63. Section 321.309 – Towing.
64. Section 321.310 – Towing four-wheel trailers.
65. Section 321.312 – Turning on curve or crest of grade.
66. Section 321.313 – Starting parked vehicle.
67. Section 321.314 – When signal required.
68. Section 321.315 – Signal continuous.
69. Section 321.316 – Stopping.
70. Section 321.317 – Signals by hand and arm or signal device.
71. Section 321.318 – Method of giving hand and arm signals.
72. Section 321.319 – Entering intersections from different highways.
73. Section 321.320 – Left turns; yielding.
74. Section 321.321 – Entering through highways.
75. Section 321.322 – Vehicles entering stop or yield intersection.
76. Section 321.323 – Moving vehicle backward on highway.
77. Section 321.323A – Approaching certain stationary vehicles.
78. Section 321.324 – Operation on approach of emergency vehicles.
79. Section 321.324A – Funeral processions.
80. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
81. Section 321.330 – Use of crosswalks.
82. Section 321.332 – White canes restricted to blind persons.
83. Section 321.333 – Duty of drivers approaching blind persons.
84. Section 321.340 – Driving through safety zone.
85. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
86. Section 321.342 – Stop at certain railroad crossings; posting warning.
87. Section 321.343 – Certain vehicles must stop.

88. Section 321.344 – Heavy equipment at crossing.
89. Section 321.344B – Immediate safety threat; penalty.
90. Section 321.354 – Stopping on traveled way.
91. Section 321.359 – Moving other vehicle.
92. Section 321.362 – Unattended motor vehicle.
93. Section 321.363 – Obstruction to driver’s view.
94. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully controlled-access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – School buses.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required.
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
110. Section 321.387 – Rear lamps.
111. Section 321.388 – Illuminating plates.
112. Section 321.389 – Reflector requirement.
113. Section 321.390 – Reflector requirements.
114. Section 321.392 – Clearance and identification lights.
115. Section 321.393 – Color and mounting.
116. Section 321.394 – Lamp or flag on projecting load.
117. Section 321.395 – Lamps on parked vehicles.
118. Section 321.398 – Lamps on other vehicles and equipment.
119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.



122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.408 – Back-up lamps.
125. Section 321.409 – Mandatory lighting equipment.
126. Section 321.415 – Required usage of lighting devices.
127. Section 321.417 – Single-beam road-lighting equipment.
128. Section 321.418 – Alternate road-lighting equipment.
129. Section 321.419 – Number of driving lamps required or permitted.
130. Section 321.420 – Number of lamps lighted.
131. Section 321.421 – Special restrictions on lamps.
132. Section 321.422 – Red light in front.
133. Section 321.423 – Flashing lights.
134. Section 321.430 – Brake, hitch, and control requirements.
135. Section 321.431 – Performance ability.
136. Section 321.432 – Horns and warning devices.
137. Section 321.433 – Sirens, whistles, and bells prohibited.
138. Section 321.434 – Bicycle sirens or whistles.
139. Section 321.436 – Mufflers, prevention of noise.
140. Section 321.437 – Mirrors.
141. Section 321.438 – Windshields and windows.
142. Section 321.439 – Windshield wipers.
143. Section 321.440 – Restrictions as to tire equipment.
144. Section 321.441 – Metal tires prohibited.
145. Section 321.442 – Projections on wheels.
146. Section 321.444 – Safety glass.
147. Section 321.445 – Safety belts and safety harnesses; use required.
148. Section 321.446 – Child restraint devices.
149. Section 321.449 – Motor carrier safety regulations.
150. Section 321.449A – Rail crew transport drivers.
151. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
152. Section 321.450 – Hazardous materials transportation.
153. Section 321.454 – Width of vehicles.
154. Section 321.455 – Projecting loads on passenger vehicles.
155. Section 321.456 – Height of vehicles; permits.

156. Section 321.457 – Maximum length.
157. Section 321.458 – Loading beyond front.
158. Section 321.460 – Spilling loads on highways.
159. Section 321.461 – Trailers and towed vehicles.
160. Section 321.462 – Drawbars and safety chains.
161. Section 321.463 – Maximum gross weight.
162. Section 321.465 – Weighing vehicles and removal of excess.
163. Section 321.466 – Increased loading capacity; reregistration.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

**62.07 MILLING.** It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

**62.08 ENGINE BRAKES AND COMPRESSION BRAKES.** It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City limits any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, except in response to an imminent traffic accident.

## 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 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. On North Franklin Street from Sherman Avenue to a point 1000 feet north of Sherman Avenue.
2. Special 30 MPH Speed Zones. A speed in excess of 30 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On North Franklin Street from Sixth Avenue to Tenth Avenue;
  - B. On Sherman Avenue from Fourteenth Street to Butler Street.

3. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On North Franklin Street from a point 1000 feet north of Sherman Avenue to a point 1800 feet north of Sherman Avenue;
  - B. On Franklin Street from Tenth Avenue to a point 1256 feet south of Tenth Avenue;
  - C. On Butler Street from a point 1030 feet south of Fifth Avenue to a point 40 feet south of the south line of Sections 1 and 2, Township 89 North, Range 19 West of the 5<sup>th</sup> P.M. in Hardin County.
4. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On North Franklin Street from a point 1800 feet north of Sherman Avenue to the north City limits;
  - B. On Franklin Street from a point 1256 feet south of Tenth Avenue to a point 2136 feet south of Tenth Avenue;
  - C. On Butler Street from a point 40 feet south of the south line of Sections 1 and 2, Township 89 North, Range 19 West of the 5<sup>th</sup> P.M. in Hardin County to a point 1985 feet south of the south line of said Section 1 and 2;
  - D. On Sherman Avenue from the west City limits to Fourteenth Street;
  - E. On Sherman Avenue from Butler Street to the east 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**

**64.03 Left Turn for Parking**

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

- NONE -

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Through Streets  
65.02 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 Pedestrians' Right-of-Way  
65.08 Stop Required Upon Exiting Alleys

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

*(Code of Iowa, Sec. 321.345)*

1. Sherman Avenue from the west City limits to the east City limits;
2. Butler Street from Park Avenue to the south City limits;
3. Franklin Street from the south City limits to Sherman Avenue.

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

*(Code of Iowa, Sec. 321.345)*

1. Fifth Avenue at its intersections with Hardin Street, State Street and Cerro Gordo Street;
2. Fourth Avenue at its intersections with Grundy Street and Hardin Street;
3. Third Avenue at its intersections with Hardin Street and State Street;
4. Second Avenue at its intersections with Hardin Street and State Street;
5. First Avenue westbound at State Street;
6. Park Avenue at its intersection with Butler Street;
7. Fourteenth Street at its intersection with Lincoln Avenue;
8. Thirteenth Street at its intersection with Lincoln Avenue;
9. Eleventh Street at its intersection with Lincoln Avenue;
10. Franklin Street at its intersection with Sherman Avenue;
11. Cerro Gordo Street at both of its intersections with Main Street and at its intersections with Tenth Avenue and Fifth Avenue;
12. Mitchell Street at its intersections with Main Street and Tenth Avenue;
13. State Street at its intersections with Tenth Avenue, Third Avenue, Second Avenue, Main Street and Park Avenue;
14. Hardin Street at its intersections with Fifth Avenue, Fourth Avenue, Third Avenue, Second Avenue and Park Avenue;
15. Grundy Street at its intersection with Third Avenue, Fourth Avenue, Fifth Avenue, and Park Avenue;

16. Butler Street at its intersection with Park Avenue;
17. Cerro Gordo Street at its intersection with the Illinois Central Gulf Railroad tracks;
18. Fourth Avenue at its intersection with the Chicago and Northwestern Railroad tracks;
19. Douglas Avenue at its intersection with the Chicago and Northwestern Railroad tracks;
20. Lincoln Avenue at its intersection with the Chicago and Northwestern Railroad tracks;
21. Eastbound Fourth Avenue at Worth Street;
22. Worth Street at its intersection with Tenth Avenue;
23. Douglas Avenue at its intersection with Thirteenth Street;
24. Mitchell Street at its intersection with Fifth Avenue;
25. The alley behind The Cougar's Den Daycare at its intersection with Second Avenue.
26. Douglas Avenue at its intersection with Eleventh Street.
27. North Twelfth Street at its intersection with Sherman Avenue.
28. North Franklin Street at its intersection with Sherman Avenue.
29. Industrial Drive at its intersection with Sherman Avenue.

**65.03 YIELD REQUIRED.** At the following intersections, traffic on the designated streets shall yield the right-of-way to any and all traffic on the intersecting street which may be in the intersection or approaching so closely as to constitute a hazard, and yield signs shall be placed at said intersections to control traffic consistent with this section.

*(Code of Iowa, Sec. 321.345)*

1. Ninth Avenue at its intersections with State Street, Mitchell Street and Cerro Gordo Street;
2. Eighth Avenue at its intersections with State Street, Mitchell Street and Cerro Gordo Street;
3. Seventh Avenue at its intersections with State Street, Mitchell Street and Cerro Gordo Street;
4. Sixth Avenue at its intersections with Mitchell Street, Cerro Gordo Street and State Street;
5. Fourth Avenue at its intersections with State Street, Mitchell Street and Cerro Gordo Street;
6. Third Avenue at its intersections with Mitchell Street and Cerro Gordo Street;
7. Second Avenue at its intersections with Mitchell Street and Cerro Gordo Street;
8. First Avenue at its intersections with State Street, Mitchell Street and Cerro Gordo Street;
9. Douglas Avenue at its intersection with Seventeenth Street;



10. Sixteenth Street at its intersection with Lincoln Avenue and Douglas Avenue;
11. Fifteenth Street at its intersections with Lincoln Avenue and Douglas Avenue;
12. Fourteenth Street at its intersection with Douglas Avenue;
13. Mitchell Street at its intersection with Fifth Avenue;
14. Hardin Street at its intersections with Main Street and First Avenue;
15. Grundy Street at its intersections with Third Avenue, Second Avenue, First Avenue and Main Street;
16. Black Hawk Street at its intersection with Fourth Avenue;
17. Fairview Drive at its intersection with Main Street;
18. Worth Street at its intersection with Fourth Avenue;
19. Logan Avenue at its intersection with Cerro Gordo Street;
20. Eighth Avenue at its intersection with Worth Street;
21. Ninth Avenue at its intersection with Worth 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)*

**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 PEDESTRIANS' RIGHT-OF-WAY.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

*(Code of Iowa, Sec. 321.327)*

*(Section 65.07 – Ord. 533 – Sep. 24 Supp.)*

**65.08 STOP REQUIRED UPON EXITING ALLEYS.** At the following intersections of alleys with streets, traffic on the designated alley shall stop and thereafter yield the right-of-way to vehicles on the intersecting streets which may be in the intersection or approaching so closely as to constitute a hazard before entering or crossing the intersecting street.

1. The alley running east and west through Block 3 of the Original Town of Ackley at its intersections with Hardin Street and State Street;
2. The alley running east and west through Block 18 of the Original Town of Ackley at its intersections with State Street and Mitchell Street;
3. The alley running east and west through Block 19 of the Original Town of Ackley at its intersections with Mitchell Street and Cerro Gordo Street;
4. The alley situated immediately north of Block 9 at its intersection with Mitchell Street.

## 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

66.06 Enforcement

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

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

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

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

1. A 17-ton limit is imposed on the following streets:
  - A. Prospect Drive from Sherman Avenue to Main Street;
  - B. Hardin Street from Sherman Avenue to Main Street;
  - C. Cerro Gordo Street from Sherman Avenue to Main Street;
  - D. Eleventh Street from Sherman Avenue to Lincoln Avenue;
  - E. Thirteenth Street from Sherman Avenue to Lincoln Avenue;
  - F. Fourteenth Street from Sherman Avenue to Lincoln Avenue;
  - G. Fifteenth Street from Sherman Avenue to Lincoln Avenue;
  - H. Sixteenth Street from Sherman Avenue to Lincoln Avenue;
  - I. Seventeenth Street from Sherman Avenue to Lincoln Avenue.

However, the load limits shall not apply to any vehicle which has as its origin or destination a location within the City, provided the vehicle proceeds directly to or directly from the point of origin or destination in the most direct route feasible.

**66.04 LOAD LIMITS ON BRIDGES.** Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Police Chief may cause to be posted and maintained signs on said bridge and at

suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits. No person shall drive upon said bridge any vehicle weighing, loaded or unloaded, in excess of such posted limit.

*(Code of Iowa, Sec. 321.471)*

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

1. Truck Routes Designated. Every motor vehicle weighing 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. Franklin Street located within the corporate City limits.
- B. Sherman Street located within the corporate City limits (also known as Hwy. S-57).

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)*

**66.06 ENFORCEMENT.**

1. Citation. Upon discovery of any violation of this chapter the City may issue a citation in the amount of \$100.00 per incident.

2. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the City Council by issuing a written request for such a hearing to the City Clerk at City Hall within seven days of the date of the citation. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the City Council a written request for the filing of a municipal infraction in court must be delivered to the City Clerk at City Hall within 15 days after the hearing held before the City Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have violated Chapter 136 of this code.

3. If a person subject to a scheduled civil penalty under this section does not request a hearing before the Council or said person does not request the filing of a municipal infraction in court after the hearing held before the Council said person shall be deemed to have waived his or her right to dispute the finding of a violation and the scheduled civil penalty imposed under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.

4. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code or regulation issued thereunder if criminal penalties are also applicable for the violation, nor does this Section preclude or limit the authority of the City to enforce the provisions of this Code by criminal sanctions or other lawful means, including but not limited to alternative reliefs or remedies contemplated by this Code or State law.

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**CHAPTER 67**  
**PEDESTRIANS**

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

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

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

# ONE-WAY TRAFFIC

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

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

1. First Avenue from State Street to Franklin Street – one-way, moving from east to west;
2. Main Street from Mitchell Street to State Street – one-way, moving from west to east;
3. Park Avenue from State Street to Mitchell Street – one-way, moving from east to west;
4. Mitchell Street from the alley midway between Main Street and First Avenue to Main Street – one-way, moving from south to north;
5. The southerly portion of the parking area situated between Block 10 and the Chicago Central & Pacific Railroad track – one-way, from west to east;
6. The northerly portion of the parking area situated between Block 10 and the Chicago Central & Pacific Railroad track – one-way, from east to west.

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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 Truck Parking Limited

69.10 Parking Limited to Fifteen Minutes

69.11 Snow Removal

69.12 Residential Parking Restrictions

**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. Park Avenue on the north side from State Street to Mitchell Street;
2. Main Street on the north side from Mitchell Street to Cerro Gordo Street;
3. Main Street on the south side from State Street to Cerro Gordo Street;
4. State Street on the west side from Main Street to alley (½ block).

**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. 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])*
3. Sidewalks. On or across a sidewalk.  
*(Code of Iowa, Sec. 321.358[1])*
4. Driveway. In front of a public or private driveway.  
*(Code of Iowa, Sec. 321.358[2])*
5. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358[3])*
6. Fire Hydrant. Within five feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358[4])*
7. 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])*
8. 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])*
9. 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])*
10. 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])*
11. 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])*
12. 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])*

13. 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)*

14. 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])*

15. 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])*

16. 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. Main Street, on the north side, from Franklin Street to a point 242 feet east and beginning at a point 304 feet east of Franklin Street and continuing to a point 355 feet east of Franklin Street.

2. Park Avenue, on the north side, between Grundy Street and the Municipal Swimming Pool from Memorial Day to Labor Day each year.

3. On the south side of the 900 block of Second Avenue from the east curb line of Hardin Street and ending 161 feet west of the west curb line of Grundy Street.

*(Subsection 3 – Ord. 522 – Sep. 24 Supp.)*

4. No parking between signs on the south side of the street in the 400 block of Main Street, from 8:00 a.m. to 5:00 p.m. Monday through Friday.

5. 5<sup>th</sup> Avenue, on the south side, from 4<sup>th</sup> Avenue to Hardin Street on school days from 7:00 a.m. to 5:00 p.m.

6. 1<sup>st</sup> Avenue, on the south side, from Franklin Street to Cerro Gordo Street.

**69.09 TRUCK PARKING LIMITED.** Excepting only when actually engaged in the delivery or receiving of merchandise or cargo, no person shall park any truck weighing five tons or more, loaded or empty, on any street within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

**69.10 PARKING LIMITED TO FIFTEEN MINUTES.** It is unlawful to park any vehicle, except a designated school vehicle or emergency vehicle, for a continuous period of more than 15 minutes between the hours of 7:00 a.m. and 5:00 p.m. on school days upon the following designated streets:

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

1. State Street on the west side from Second Avenue to Third Avenue.

2. The south side of Second Avenue between State Street and Hardin Street.

3. The north side of Third Avenue between State Street and Hardin Street.

**69.11 SNOW REMOVAL.** It is unlawful for any person to park or permit a vehicle to remain on the street during a snow emergency. Snow Emergency notices will be broadcast on several local radio and television stations, and on social media.

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

**69.12 RESIDENTIAL PARKING RESTRICTIONS.**

1. Within all residential districts there shall be no parking in front yards, except on a surfaced driveway or auxiliary parking area. Surfaced driveways and auxiliary parking areas shall be hard surfaced or 1" road stone.
2. A driveway is considered the surfaced portion of the yard no wider than the width of the garage.
3. Additional parking of vehicles is permitted on a surfaced area or "wing" off to the side of a driveway. An auxiliary surfaced parking or driveway "wing" is permitted on one side of the driveway, but not on both sides.
4. Auxiliary "wing" parking shall be no more than 10 feet in width and shall not encroach into the right of way.

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## CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

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

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$10.00 for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$100.00.

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

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

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

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

**70.06 IMPOUNDING VEHICLES.** 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])*

## 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. “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 or off-road motorcycle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

*(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.

**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 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. In designating such streets, the Council may authorize ATVs to stop at service stations or convenience stores along a designated street.

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

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

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

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

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

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

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

6. Direct Crossing. An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

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

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

B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

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

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

E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City to a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City.

**75.06 HOURS OF OPERATION.** No ATV or snowmobile shall be operated on the public streets within the City between the hours of 12:00 a.m. (midnight) and 7:00 a.m. except in emergency situations.

**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 and 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 and 321I.11)*

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## CHAPTER 76

# BICYCLE REGULATIONS

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

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. **Lamps Required.** Every bicycle when in use at nighttime shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 300 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

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



## CHAPTER 77

# GOLF CARTS

77.01 Purpose  
77.02 Operation of Golf Carts Permitted  
77.03 Prohibited Acts

77.04 Equipment  
77.05 Hours  
77.06 License, Fees, Fines and Renewals

**77.01 PURPOSE.** The purpose of this chapter is to approve the operation of golf carts on the streets of the City.

**77.02 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon the streets of the City by persons possessing a valid Iowa driver's license, except as prohibited in Section 77.03 of this chapter.

**77.03 PROHIBITED ACTS.** Golf carts shall not be operated upon Sherman Avenue throughout the City nor upon Butler Street from 5<sup>th</sup> Avenue to the southern City limits, nor upon Franklin Street from 3<sup>rd</sup> Avenue to the southern City limits. However, golf carts may cross prohibited streets provided such crossing is made at an angle of approximately ninety degrees to the direction of the highway (or as close as is safely possible to said angle) and at a place where no obstruction prevents a quick and safe crossing. Occupants of golf carts shall not exceed the manufacturer's recommended seating allowance.

**77.04 EQUIPMENT.** Golf carts operated upon City streets shall be equipped with either a slow moving vehicle sign or functional turn signals and must also display a bicycle safety flag at all times during operation. Modified exhaust systems shall not be permitted on any golf cart operated upon City streets..

**77.05 HOURS.** Golf carts may be operated on City streets only between sunrise and sunset.

**77.06 LICENSE, FEES, FINES AND RENEWALS.** A driver's license will be required to operate a golf cart on City streets. The golf cart shall be inspected by a City-approved inspector and the applicant shall pay an initial fee of \$30.00 to receive a registration tag. The registration tag will be displayed in a visible spot on the rear of the golf cart. Renewals will be issued yearly from January 1 to December 31 at the rate of \$30.00 per year. At the time of any purchase of registration tag or renewal thereof the owner must provide proof of liability insurance to the City before any registration tag will be issued. There shall be a \$100.00 fine for violation of this ordinance, which may be imposed for each incident of violation.

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**CHAPTER 78**  
**OFF-ROAD UTILITY VEHICLES**

<b>78.01 Purpose</b>	<b>78.06 Prohibited Acts</b>
<b>78.02 Definitions</b>	<b>78.07 Equipment</b>
<b>78.03 Operation of Off-Road Utility Vehicles Permitted</b>	<b>78.08 License, Fees, Fines, and Renewals</b>
<b>78.04 Highway Crossings</b>	<b>78.09 Fine</b>
<b>78.05 Prohibitions on Operating On Certain Public Areas</b>	<b>78.10 Accident Reports</b>

**78.01 PURPOSE.** The purpose of this chapter is to regulate the operation of off-road utility vehicles within the City. *(Ord. 521 – Sep. 24 Supp.)*

**78.02 DEFINITIONS.** “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)*

1. “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.
2. “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.
3. “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.

**78.03 OPERATION OF OFF-ROAD UTILITY VEHICLES PERMITTED.** Off-road utility vehicles may be operated on such streets as may be designated by resolution of the Council for the operation of off-road utility vehicles. The operation of such off-road utility vehicles shall be in accordance with Section 321.234A of the *Code of Iowa*. In designating such streets, the Council may authorize off-road utility vehicles to stop at service stations or convenience stores along a designated street. *(Ord. 521 – Sep. 24 Supp.)*

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

**78.04 HIGHWAY CROSSINGS.** An off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

1. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
2. The off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
3. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

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

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

*(Section 78.04 – Ord. 521 – Sep. 24 Supp.)*

**78.05 PROHIBITIONS ON OPERATING ON CERTAIN PUBLIC AREAS.** Off-road utility vehicles shall not be operated on the following areas:

1. Trails. Off-road utility vehicles shall not be operated on snowmobile trails except where designated by appropriate signs.

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

2. Parks and Other City Land. Off-road utility vehicles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

3. Sidewalk or Parking. Off-road utility vehicles 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.

**78.06 PROHIBITED ACTS.** Occupants of off-road utility vehicles shall not exceed the manufacturer’s recommended seating allowance.

*(Ord. 521 – Sep. 24 Supp.)*

**78.07 EQUIPMENT.** Off-road utility vehicles operated upon City streets shall be equipped with the parts, lamps, and other equipment in proper condition and adjustment as required under Chapter 321 of the *Code of Iowa* for motor vehicles.

*(Ord. 521 – Sep. 24 Supp.)*

**78.08 LICENSE, FEES, FINES, AND RENEWALS.** (Repealed by Ordinance No. 521 – Sep. 24 Supp.)

**78.09 FINE.** Unless otherwise provided by Chapter 321 of the *Code of Iowa*, there shall be imposed a fine in the amount of \$100.00 for violation of this ordinance, and such fine may be imposed for each incident of violation.

*(Ord. 521 – Sep. 24 Supp.)*

**78.10 ACCIDENT REPORTS.** Whenever an off-road utility vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

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## CHAPTER 80

# ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Reclamation of Abandoned Vehicles

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

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

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

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

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

### **80.03 NOTICE BY MAIL.**

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.89[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 90

# WATER SERVICE SYSTEM

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

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

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

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

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

**90.03 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available.

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

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

**90.06 FEE FOR PERMIT.** Before any permit is issued the person who makes the application shall pay \$25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

*(Code of Iowa, Sec. 384.84)*

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

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

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

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

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

**90.11 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be Type K copper. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

**90.13 FAILURE TO MAINTAIN.** When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.  
*(Code of Iowa, Sec. 364.12[3a and h])*

**90.14 CURB VALVE.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

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

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

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

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

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

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

**90.20 MUNICIPAL WELL PROTECTION.** No person shall build, construct, excavate or erect any structure, storage facility, private well or other improvement within 200 feet of any municipal well of a depth exceeding 1500 feet unless the person desiring to make such improvement shall first obtain the consent of the Council by roll call vote. No such consent shall be given if the proposed improvement would violate any water quality standard established by the Department of Natural Resources for a public water supply system.

**90.21 SPRAYING PROHIBITED.** No person, whether acting as principal or agent, shall spread, spray or in any other way apply or cause to be applied any herbicide, pesticide, fungicide or any other chemical to the ground surface on the following described real estate:

A tract including all points lying within a 200-foot radius of the center of the well located 83 feet south and 27 feet east of the northwest corner of Lot Five, Block 22, in the Original Town of Ackley, Hardin County, Iowa.

**90.22 ENFORCEMENT.**

1. Citation. Upon discovery of any violation of this ordinance the City may issue a citation in the amount of \$100.00 per incident. Each day said violation continues shall be considered a separate incident.
2. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the Council by issuing a written request for such a hearing to the Clerk at City Hall within seven days of the date of the citation. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the Council a written request for the filing of a municipal infraction in court must be delivered to the Clerk at City Hall within 15 days after the hearing held before the Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled civil penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have violated Chapter 90 of the City ordinances.
3. If a person subject to a scheduled civil penalty under this section does not request a hearing before the Council or said person does not request the filing of a municipal infraction in court after the hearing held before the Council said person shall be deemed to have waived his or her right to dispute the finding of a violation and the scheduled civil penalty imposed under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.
4. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code or regulation issued thereunder if criminal penalties are also applicable for the violation, nor does this section preclude or limit the authority of the City to enforce the provisions of this Code by criminal sanctions or other lawful means, including but not limited to alternative reliefs or remedies contemplated by this Code or State law.

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## CHAPTER 91

# WATER METERS

**91.01 Purpose**

**91.02 Water Use Metered**

**91.03 Fire Sprinkler Systems; Exception**

**91.04 Location of Meters**

**91.05 Meter Setting**

**91.06 Meter Costs**

**91.07 Meter Repairs**

**91.08 Right of Entry**

**91.09 Meter Accuracy and Tests**

**91.10 Outside Water Service**

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

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by the Superintendent.

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

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

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

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

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

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

**91.09 METER ACCURACY AND TESTS.** All water shall be supplied through meters that accurately measure the amount of water supplied to any customer. The Superintendent shall make a test of the accuracy of any water meter at any time when requested in writing, but not more often than once in 18 months. Such request shall be accompanied by a refundable deposit of \$20.00 – or larger guarantee set by the Council for meters over four inches – guaranteeing payment of costs if found due. If the meter is found to overrun to the extent of two percent or

more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not for longer than 30 months, plus the meter test deposit. If the meter is found to be accurate or slow or less than two percent fast, the customer shall be charged the reasonable costs of the tests from the guarantee deposit, but not to exceed the amount of the deposit, any excess to be refunded, and the customer shall be liable for any deficiency over two percent up to 30 months.

**91.10 OUTSIDE WATER SERVICE.** A separate service line with meter may be installed to the water main at residents expense for outside service uses, i.e.: irrigation, lawn and garden watering, swimming pools, etc., where the water does not enter the sanitary sewer system. Usage shall be charged for water only with no sewer, garbage or landfill fees assessed.

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## CHAPTER 92

# WATER RATES

92.01 Service Charges  
 92.02 Rates For Service  
 92.03 Rates Outside the City  
 92.04 Billing for Water Service  
 92.05 Service Discontinued

92.06 Lien for Nonpayment  
 92.07 Lien Exemption  
 92.08 Lien Notice  
 92.09 Customer Deposits  
 92.10 Temporary Vacancy  
 92.11 Use of Funds

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

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

*(Code of Iowa, Sec. 384.84)*

1. Base Rate.

Beginning on	Base Rate, which includes the first 1,000 gallons or any part thereof:
July 1, 2009	\$20.00
July 1, 2010	\$20.80
July 1, 2011	\$21.75
July 1, 2012	\$22.70
July 1, 2013	\$23.75
July 1, 2014	\$24.80
July 1, 2015	\$25.90
July 1, 2016	\$27.00
July 1, 2017	\$28.10
July 1, 2018	\$29.20
July 1, 2019	\$30.30
July 1, 2020	\$31.40
July 1, 2022	\$33.60
July 1 each year there after	Increase \$1.10

2. Additional Usage.

Beginning on	For each 100 gallons or part thereof in excess of 1,000 gallons
July 1, 2009	\$0.30
July 1, 2010	\$0.32
July 1, 2011	\$0.34
July 1, 2012	\$0.36
July 1, 2013	\$0.38
July 1, 2014	\$0.40
July 1, 2015	\$0.42
July 1, 2016	\$0.44
July 1, 2017	\$0.46
July 1, 2018	\$0.48
July 1, 2019	\$0.50
July 1, 2020	\$0.52
July 1, 2021	\$0.54
July 1, 2022	\$0.56
July 1 each year thereafter	Increase \$.02

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

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

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

*(Code of Iowa, Sec. 384.84)*

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the 25<sup>th</sup> day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 10<sup>th</sup> day of the following month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of \$10.00 shall be added to each delinquent bill per month.
4. Returned Checks and Automatic Clearing House (ACH) Rejects. A service fee assessed to any customer whose check or ACH payment is returned or rejected as unpaid by the bank on which it was drawn due to non-sufficient funds shall be established from time to time by the Council by resolution. The service fee shall be in addition to the late payment penalty if the check or ACH is not made good and the service fee not paid prior to the delinquent date of the bill. If the account was in delinquent status at the time of receiving the payment, and the check or ACH was to avoid discontinuation of service, upon receiving the item back from the bank, the City will discontinue service without further notice. In addition, the account will be restricted to certified funds or cash only for a period of six months.



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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer with a services account that is thirty days past due that service will be discontinued if payment of the combined service account in full, including late payment charges and discontinued service notice charges, is not received by the date specified in the notice of delinquency. This discontinued date will be seven to ten days from the date of such notice. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance. In addition a door tag will be placed at the service location notifying the delinquent customer that the service will be discontinued if the total balance on the service account is not paid within the specified time frame.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Mayor's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Fees. A fee of \$15.00 will be charged for the notification of delinquency and impeding discontinuation of service. A fee of \$50.00 shall be charged and must be paid before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.**

*(Code of Iowa, Sec. 384.84)*

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

2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

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

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

*(Code of Iowa, Sec. 384.84)*

**92.09 CUSTOMER DEPOSITS.** Customer deposits are required of all customers. Such deposit shall be \$150.00 for a residential use. In the case of a nonresidential use, such deposit shall be an amount equal to the estimated typical bill for the type of use contracted for, set to the nearest \$5.00. Deposits of customers having established acceptable credit records for one year shall be returned. An occurrence or recurrence of a bad payment record may be the occasion for a new or larger deposit for the continuation of service.

*(Code of Iowa, Sec. 384.84)*

**92.10 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be

vacant for an extended period of time. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

**92.11 USE OF FUNDS.** At least 45% of all moneys collected from the rates established herein shall be used only for capital improvements, repairs, and maintenance of the water distribution system elements.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

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

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

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

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

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

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

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

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

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

**95.05 SEWER CONNECTION REQUIRED.** 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 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

*(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 and 3])*

**95.07 RIGHT OF ENTRY.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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



## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

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 Abandoned Connections

96.11 Abatement of Violations

96.12 Enforcement

**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. Failure to timely complete construction and connection shall constitute a violation of this Chapter. Each day the construction and connection exceeds the permit is a separate violation. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE.** The person who makes the application shall pay a fee in the amount of \$30.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

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

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

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

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

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
  - 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 or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

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

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection, and maintenance of the building sewer 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 ABANDONED CONNECTIONS.** When an existing sanitary sewer service of building sewer is abandoned or a service is renewed with a new sewer tap in the main, all abandoned connections with the mains shall be plugged and made absolutely watertight. As soon as the abandonment of said connection 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. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

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

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

**96.12 ENFORCEMENT.**

1. Citation. Upon discovery of any violation of this chapter the City may issue a citation in the amount of \$100.00 per incident. Each day said violation continues shall be considered a separate incident.
2. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the Council by issuing a written request for such a hearing to the Clerk at City Hall within seven days of the date of the citation. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the Council a written request for the filing of a municipal infraction in court must be delivered to the Clerk at City Hall within 15 days after the hearing held before the City Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have violated Chapter 96 of the City code.
3. If a person subject to a scheduled civil penalty under this section does not request a hearing before the Council or said person does not request the filing of a municipal infraction in court after the hearing held before the Council said person shall be deemed to have waived his or her right to dispute the finding of a violation and the scheduled civil penalty imposed under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.
4. In addition to the foregoing the City may pursue abatement of violations as set forth in 96.11.
5. This section does not preclude a peace officer from issuing a criminal citation for a violation of this section or regulation issued thereunder if criminal penalties are also applicable for the violation, nor does this section preclude or limit the authority of the City to enforce the provisions of this section by criminal sanctions or other lawful means, including but not limited to alternative reliefs or remedies contemplated by this section or State law.

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## 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 Water Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**97.07 CONTROL MANHOLES.** When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).



**CHAPTER 98**  
**ON-SITE WASTEWATER SYSTEMS**

**98.01** When Prohibited  
**98.02** When Required  
**98.03** Compliance with Regulations  
**98.04** Permit Required

**98.05** Discharge Restrictions  
**98.06** Maintenance of System  
**98.07** Systems Abandoned  
**98.08** Disposal of Septage

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

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

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

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

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

*(IAC, 567-69.1[3 and 4])*

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

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

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

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

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

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

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

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## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Special Rates

99.03 Payment of Bills

99.04 Lien for Nonpayment

99.05 Special Agreements Permitted

99.06 Use of Funds

**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. For those customers connected to the municipal water system, the monthly rates shall be based on water used during the current monthly billing period as determined by their water meter readings and shall be as follows.

A. Base Rate.

Beginning on July 1, 2018, base rate will be \$52.00.

Beginning on July 1 of each year thereafter, the base rate will increase \$1.35 unless waived by the City Council. In order to waive said increase, the City Council will annually (prior to their June meeting) review the financial stability of the sanitary sewer accounts and if they are considered financially stable, the City Council may vote to waive said increase for the next fiscal year. The City Council shall not waive more than one year's worth of increase in any fiscal year.

B. Usage Rate.

Beginning on July 1, 2018, \$4.12 for each 1000 gallons or part thereof.

Beginning on July 1 of each year thereafter, the increase will be \$.20 for each 1000 gallons or part thereof unless waived by the City Council. In order to waive said increase, the City Council will annually (prior to their June meeting) review the financial stability of the sanitary sewer accounts and if they are considered financially stable, the City Council may vote to waive said increase for the next fiscal year. The City Council shall not waive more than one year's worth of increase in any fiscal year.

2. For those customers who are not connected with the municipal water system, but are connected to the municipal sanitary sewer system, the rate shall be the base rate plus three times the usage rate per month per unit.

**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 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in

Section 92.04 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.04 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.05 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

**99.06 USE OF FUNDS.** 100% of all moneys collected from the rates established herein shall be used only for capital improvements, repairs, maintenance, and operating expenses of the sanitary sewer system elements; or for repayment of loans for capital improvements, repairs, and maintenance of the sanitary sewer system elements. No funds will be transferred out of any of the sewer funds to any non-sewer fund.

## CHAPTER 100

# STORM WATER DRAINAGE SYSTEM

**100.01 Purpose**

**100.02 Storm Water Drainage System**

**100.03 User Classes**

**100.04 Rates**

**100.05 Payment of Rates and Lien for Nonpayment**

**100.06 Use of Funds**

**100.01 PURPOSE.** The purpose of this chapter is to establish a storm water drainage system district and provide a means of funding the improvement, operation, and maintenance of storm water management facilities including, but not limited to, retainage basins, wetlands, creeks, streams, storm sewers, inlets, ditches, drains, culverts and facilities and programs for eliminating storm water from the sanitary sewer system.

**100.02 STORM WATER DRAINAGE SYSTEM.** The entire City is hereby declared a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates for the improvement, operation, and maintenance of storm water management facilities. As additional areas are annexed to the City, they shall immediately be included in the storm water drainage system district.

**100.03 USER CLASSES.** Every property in the City as listed in the Hardin County and Franklin County Auditor's Real Estate Workbook Detail shall be assigned a user class (class A through and including class F). The user classes shall be computed using the following:

1. Definitions.
  - A. Impervious Surfaces (I) - Surfaces which do not absorb water such as asphalt, concrete, brick, roof material, etc.
  - B. Pervious Surfaces (P) - Surfaces which absorb water such as soil, grass, landscape areas, etc.
  - C. Runoff Coefficient (C) - A fixed factor used to describe the percentage of water which will be runoff of a given surface material. For this ordinance:
    - (CI) is designated Impervious Surface Coefficient and is equal to 0.9
    - (CP) is designated Pervious Surface Coefficient and is equal to 0.3
  - D. Property - A parcel of contiguous real estate owned by the same owner or owners. Parcels of real estate separated by only a street or alley which is not open to vehicular traffic by the general public shall be treated as a single property.

2. User class A has been established by averaging a normal size residential lot and a larger, one-half acre lot as follows:

	Normal City Lot	Large City Lot
Size	12,000 square feet	21,780 square feet
Impervious Area:	2,180 square feet	3,600 square feet
Pervious Area:	9,280 square feet	18,180 square feet
Runoff Coefficient		
Impervious Area:	0.9	0.9
Pervious Area:	0.3	0.3

User Class A Points

$$\begin{aligned} \text{Normal City Lot} &= (2,180 \times 0.9) + (9,280 \times 0.3) = 4,908 \\ \text{Large City Lot} &= (3,600 \times 0.9) + (18,180 \times 0.3) = 8,694 \\ \text{Total} &= 13,602 \\ &\div 2 \\ \text{Average} &= 6,801 \end{aligned}$$

3. By definition, all properties in Ackley which are 21,780 square feet in size or smaller with an impervious area of 3,600 square feet or less are in user class A. The user class points for all other properties shall be computed in the same manner as that shown above. Said properties shall be divided into user classes based upon the following:

User Class	Class Point Range
A	0 to 7,650
B	7,651 to 20,400
C	20,401 to 34,000
D	34,001 to 68,000
E	68,001 to 136,000
F	136,001 and above

**100.04 RATES.** The rates for the improvement, operation, and maintenance of the storm water management facilities shall be collected by using the above schedule of user classes and below corresponding rates:

1. Beginning on July 1, 2014:
  - The rate for A is set at \$4.00 per month.
  - The rate for B is set at \$8.00 per month.
  - The rate for C is set at \$12.00 per month.
  - The rate for D is set at \$16.00 per month.

- The rate for E is set at \$20.00 per month.
  - The rate for F is set at \$24.00 per month.
2. Beginning on July 1, 2015:
    - The rate for A is set at \$5.50 per month.
    - The rate for B is set at \$11.00 per month.
    - The rate for C is set at \$16.50 per month.
    - The rate for D is set at \$22.00 per month.
    - The rate for E is set at \$27.50 per month.
    - The rate for F is set at \$33.00 per month.
  3. Beginning on July 1, 2016:
    - The rate for A is set at \$7.00 per month.
    - The rate for B is set at \$14.00 per month.
    - The rate for C is set at \$21.00 per month.
    - The rate for D is set at \$28.00 per month.
    - The rate for E is set at \$35.00 per month.
    - The rate for F is set at \$42.00 per month.
  4. Beginning on July 1, 2017:
    - The rate for A is set at \$8.50 per month.
    - The rate for B is set at \$17.00 per month.
    - The rate for C is set at \$25.50 per month.
    - The rate for D is set at \$34.00 per month.
    - The rate for E is set at \$42.50 per month.
    - The rate for F is set at \$51.00 per month.
  5. Beginning on July 1, 2018:
    - The rate for A is set at \$10.00 per month.
    - The rate for B is set at \$20.00 per month.
    - The rate for C is set at \$30.00 per month.
    - The rate for D is set at \$40.00 per month.
    - The rate for E is set at \$50.00 per month.
    - The rate for F is set at \$60.00 per month.
  6. Beginning on July 1, 2019:
    - The rate for A is set at \$10.40 per month.
    - The rate for B is set at \$20.80 per month.
    - The rate for C is set at \$31.20 per month.
    - The rate for D is set at \$41.60 per month.
    - The rate for E is set at \$52.00 per month.
    - The rate for F is set at \$62.40 per month.
  7. Beginning on July 1, 2020:
    - The rate for A is set at \$10.82 per month.
    - The rate for B is set at \$21.63 per month.
    - The rate for C is set at \$32.45 per month.

- The rate for D is set at \$43.26 per month.
  - The rate for E is set at \$54.08 per month.
  - The rate for F is set at \$64.90 per month.
8. Beginning on July 1, 2021:
- The rate for A is set at \$11.25 per month.
  - The rate for B is set at \$22.50 per month.
  - The rate for C is set at \$33.75 per month.
  - The rate for D is set at \$44.99 per month.
  - The rate for E is set at \$56.24 per month.
  - The rate for F is set at \$64.90 per month.
9. Beginning on July 1, 2022:
- The rate for A is set at \$11.70 per month.
  - The rate for B is set at \$23.40 per month.
  - The rate for C is set at \$35.10 per month.
  - The rate for D is set at \$46.79 per month.
  - The rate for E is set at \$58.49 per month.
  - The rate for F is set at \$67.50 per month.
10. Beginning on July 1 of each year thereafter, the rate for each user class will increase by 4%.
11. The above user classes shall be determined by a professional engineer or professional surveyor in accordance with the above formula. The user classes shall be established so that they reflect the different storm water runoff characteristics of the property and shall be reviewed by a professional engineer or professional surveyor in conjunction with the Clerk annually in January.

**100.05 PAYMENT OF RATES AND LIEN FOR NONPAYMENT.** All storm water drainage system charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for storm water drainage system charges to the premises. Storm water drainage system charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. The provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account..

**100.06 USE OF FUNDS.** 100% of all moneys collected from the rates established herein shall be used only for capital improvements, repairs, maintenance equipment and operations, and operating expenses of the storm water drainage system elements.

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## CHAPTER 105

# SOLID WASTE CONTROL

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

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.  
*(Code of Iowa, Sec. 455B.361[1])*
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.  
*(IAC, 567-100.2)*
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.  
*(IAC, 567-20.2[455B])*
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.  
*(Code of Iowa, Sec. 455B.361[2])*
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including four separate dwelling units.

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

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

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

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

**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. Back Yard Burning. The open burning of residential waste on the property where such waste is generated, at dwellings of four-family units or less.

*(IAC, 567-23.2[3f] and 567-20.2[455B])*

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in 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. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

9. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3j])*

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(IAC, 567-23.2[2])*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises 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 sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
  - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in 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 outdoors at some easily accessible place 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.

**105.11 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Hardin County Solid Waste are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

## CHAPTER 106

# COLLECTION OF SOLID WASTE

**106.01** Collection Service  
**106.02** Collection Vehicles  
**106.03** Loading  
**106.04** Frequency of Collection

**106.05** Bulky Rubbish  
**106.06** Right of Entry  
**106.07** Collection Fees  
**106.08** Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The City shall provide for the collection of solid waste from any residential premise located outside the corporate limits of the City that is receiving water service or sanitary sewer service from the City upon the property owner's request. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to the collection of solid waste established by the Council. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

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

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**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 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. A collection fee for collection of one container, not exceeding 35 gallons nor exceeding 50 pounds, each week shall be determined by Council and set by a fee schedule resolution.

B. Any additional containers shall be collected at a cost, determined by Council and set by a fee schedule resolution, per container. All such additional containers shall have identification, obtained from vendors designated by the City or City Hall, affixed thereto.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.08 LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

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## CHAPTER 107

# COUNTY RECYCLING CHARGES

107.01 Recycling Fee Established  
107.02 Fee  
107.03 Residential Units Charged

107.04 Residential Unit Defined  
107.05 Utility Bill

**107.01 RECYCLING FEE ESTABLISHED.** Each residential unit and all commercial, industrial, and governmental premises in the City shall be assessed a recycling fee, as may be from time to time, established by the Council by ordinance to partially or fully defray the cost of the commission assessment and any related expenses.

**107.02 FEE.** The recycling fee is \$6.00 per month for each residential unit and all commercial, industrial, and governmental premises.

**107.03 RESIDENTIAL UNITS CHARGED.** The recycling fees referred to in 107.01 shall be charged to each residential unit and all commercial, industrial, and governmental premises whether or not such residential unit or premise is subject to payment of solid waste collection fees and regardless of occupancy or use of recycling services. Any residential, commercial, industrial, or governmental building that has been deemed unsafe to occupy by a City official will not be assessed this recycling fee effective the date it was deemed unsafe. If a commercial or industrial premise has multiple commercial or industrial premises associated to one business operation, then the property owner of those premises is eligible to complete a recycling waiver for those additional premises. The recycling fee will be waived effective the date the waiver is submitted to City Hall.

**107.04 RESIDENTIAL UNIT DEFINED.** Residential unit, for the purpose of this chapter, shall mean any house, apartment, suite of rooms, mobile home, or other place of abode that can be used by a person or group of persons as a place of residence.

**107.05 UTILITY BILL.** The recycling fee established by this chapter shall be considered a utility bill for the purpose of Section 92.04 of the Ackley Municipal Code and the provisions of said Section 92.04 shall apply to the collection of said recycling fee and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.10 Force Majeure
110.02 Term	110.11 Hold Harmless
110.03 Franchise Fees or Taxes	110.12 Successors and Assigns
110.04 Governing Rules and Regulations	110.13 No Third-Party Beneficiaries
110.05 Provision for Inadequate Energy Supplies	110.14 Severability
110.06 Construction and Maintenance of Grantee's Facilities	110.15 Non-Waiver
110.07 Extension of Grantee's Facilities	110.16 Repeal Conflicting Ordinances
110.08 Relocation of Grantee's Facilities	110.17 Effect and Interpretation of Ordinance
110.09 Confidential Information	110.18 Effective Date and Acceptance

**110.01 FRANCHISE GRANTED.** The City of Ackley, Iowa (hereinafter referred to as “Grantor”), hereby grants a non-exclusive franchise to Black Hill/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability corporation (hereinafter called “Grantee”), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over, above or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, poles, communication devices, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

**110.02 TERM.** The rights and privileges granted hereunder shall remain in effect for a period of twenty-five (25) years from the effective date of this ordinance.<sup>†</sup>

**110.03 FRANCHISE FEES OR TAXES.**

1. Grantor hereby establishes a franchise fee on Grantee and on every natural gas company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas or system and/or generating, manufacturing, selling, distributing or transporting natural gas (hereinafter referred to, collectively, as “Energy Providers,” each, individually, an “Energy Provider”).

Energy Providers shall collect from their customers located within the corporate limits of the Grantor as depicted on the Map (as defined below) including the Grantor and pay to the City and amount equal to three percent (3%) of gross receipts Energy Providers derive from the sale, distribution or transportation of natural gas delivered within the present limits of the Grantor. Gross receipts as used herein are revenues received from

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 523, adopting a natural gas franchise for the City, was passed and adopted on March 13, 2024.

the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

2. The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other fees, charges, taxes or assessments which the Grantor may impose for the privilege of doing business within the Grantor, including, without limitation, excise taxes, [occupation taxes], licensing fees, or right-of-way permit fees, and in the event the Grantor imposes any such fee, charge, tax or assessment, the payment to be made by Energy Providers in accordance with this ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Grantor shall not be deemed to affect Energy Providers' obligations under this ordinance.

3. Energy Providers shall report and pay any amount payable under this ordinance on a monthly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the Grantor, Iowa, to an Energy Provider.

4. Energy Providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, Energy Providers will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of Grantor, Energy Providers may reduce the franchise fee payable for natural gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

5. Within ten (10) days of the date of this ordinance, the Grantor shall provide Energy Providers with a map of its corporate limits (the "Map"). The Map shall be of sufficient detail to assist Energy Providers in determining whether their customers reside within the Grantor's corporate limits. The Map shall serve as the sole basis for determining Energy Provider's obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Grantor's corporate limits are changed by annexation or otherwise, it shall be the Grantor's sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Energy Providers. An Energy Provider's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider's receipt from the Grantor of an updated Map including such annexed area, or (b) such time after such Energy Provider's receipt from the Grantor of an updated Map including such annexed area as is reasonably necessary for such Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

6. The City shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the City as set forth in Subsection 4 above.

7. The Grantor shall have access to and the right to examine during normal business hours, Energy Provider's books, receipts, files, records and documents as is reasonable necessary to verify the accuracy of payments due hereunder; provided, that the Grantor shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required

hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by an Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise fee due by such Energy Provider to the Grantor; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

**110.04 GOVERNING RULES AND REGULATIONS.** The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

**110.05 PROVISION FOR INADQUATE ENERGY SUPPLIES.** If any energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the rights and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

**110.06 CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES.** Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable time thereafter, Grantee shall request and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall

contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practical in advance of the actual commencement of the work, considering reasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

**110.07 EXTENSION OF GRANTEE'S FACILITIES.** Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Iowa Utilities Board make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

**110.08 RELOCATION OF GRANTEE'S FACILITIES.** If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, unless otherwise reimbursed by federal, State or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference with Grantor's facilities.

If Grantor orders or request Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference with such project, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment.

Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

**110.09 CONFIDENTIAL INFORMATION.** Grantor acknowledges that certain information it might request from Grantee pursuant to this ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under State or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

**110.10 FORCE MAJEURE.** It shall not be a breach or default under this ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines;

2) acts of other such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

**110.11 HOLD HARMLESS.** Grantee, during the term of this ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

**110.12 SUCCESSORS AND ASSIGNS.** All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

**110.13 NO THIRD-PARTY BENEFICIARIES.** This ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third-party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

**110.14 SEVERABILITY.** If any clause, sentence or section of this ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

**110.15 NON-WAIVER.** Any waiver of any obligation or default under this ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

**110.16 REPEAL CONFLICTING ORDINANCES.** This ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 386 of the Grantor, Iowa, is hereby repealed as of the effective date hereof.

**110.17 EFFECT AND INTERPRETATION OF ORDINANCE.** The captions that precede each section of this ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this ordinance.

**110.18 EFFECTIVE DATE AND ACCEPTANCE.** This ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the City Council, and filing with the Clerk of the City of Ackley, Iowa. The Clerk of the City of Ackley, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee.

If Grantee does not, within sixty (60) days following passage of this ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this ordinance in its entirety, Grantee shall be deemed to have accepted this ordinance and all of its terms and conditions.

*(Chapter 110 – Ord. 523 – Sep. 24 Supp.)*



## CHAPTER 111

# ELECTRIC FRANCHISE

111.01 Franchise Granted	111.14 Franchise Fee
111.02 Rights and Privileges	111.15 Fee Exemptions
111.03 Poles and Wires	111.16 Modifying Fees
111.04 Trimming Trees	111.17 Collection of Fees
111.05 Construction and Maintenance	111.18 Identifying Customers
111.06 Excavations	111.19 Franchise Fee Indemnification
111.07 Utility Easements	111.20 Fee Remittance
111.08 Relocation not Required	111.21 Fee Administration
111.09 Relocation Reimbursement	111.22 Fee Refunds
111.10 Indemnification	111.23 Obligation to Collect
111.11 Information	111.24 Obligation Relieved
111.12 Applicable Regulations	111.25 Management Fees
111.13 Quality and Quantity	111.26 Termination

**111.01 FRANCHISE GRANTED.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Ackley, Iowa, hereinafter called the “City,” a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of the ordinance codified by this chapter.<sup>†</sup>

**111.02 RIGHTS AND PRIVILEGES.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*, 2012, or as subsequently amended or changed.

**111.03 POLES AND WIRES.** The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to unreasonably interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

**111.04 TRIMMING TREES.** The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and State law, rules and regulations.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 458, adopting an electric franchise for the City, was passed and adopted on May 9, 2012.

**111.05 CONSTRUCTION AND MAINTENANCE.** The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley of such street or alley. The City and the Company shall work together to develop a suitable alternative route or construction method so as to eliminate or minimize the cost and expense to the Company of relocation of company installations. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and the Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**111.06 EXCAVATIONS.** In making excavations in any streets, avenues, alleys and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the condition as existed prior to the Company excavation. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with City, State or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

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

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

**111.09 RELOCATION REIMBURSEMENT.** Pursuant to relocation of Company facilities as may be required by Sections 111.03, 111.05, 111.06, 111.07 and 111.08, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall reimburse or the City shall require the developer or non-public entity to reimburse the

Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

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

**111.11 INFORMATION.** Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under State or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right-of-way which may constitute a trade secret or which may otherwise be protected from public disclosure by State or federal law. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

**111.12 APPLICABLE REGULATIONS.** The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

**111.13 QUALITY AND QUANTITY.** During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

**111.14 FRANCHISE FEE.** There is hereby imposed upon and shall be collected from the retail electric customers of the Company receiving service pursuant to the Tariff located within the corporate limits of the City and remitted by the Company to the City, a franchise fee from each customer class as set forth below of the gross receipts, minus uncollectable amounts, derived by the Company from the delivery and sale of electric energy to customers within the corporate limits of the City:

- Residential Customers            1 percent
- Non-Residential Customers       1 percent
- Public Authority Customers      1 percent

**111.15 FEE EXEMPTIONS.** The City may, as allowed by Iowa law, exempt customer classes of sales from imposition of the franchise fee, or modify, decrease or eliminate the franchise fee. The City reserves the right to cancel any or all the franchise fee exemptions and

also reserves the right to grant exemptions to customer classes in compliance with Iowa law and Section 111.16 of this chapter. The City does therefore exempt the customer classes or customer groups shown below franchise fees.

- Customer classes initially exempted by the City:

**111.16 MODIFYING FEES.** The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the City Council.

**111.17 COLLECTION OF FEES.** The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

**111.18 IDENTIFYING CUSTOMERS.** The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

**111.19 FRANCHISE FEE INDEMNIFICATION.** The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

**111.20 FEE REMITTANCE.** The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.

- January, February and March
- April, May and June
- July, August and September, and
- October, November and December

MidAmerican shall provide City with notice at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

**111.21 FEE ADMINISTRATION.** The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

**111.22 FEE REFUNDS.** The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

**111.23 OBLIGATION TO COLLECT.** The obligation to collect and remit the fee imposed by this chapter is modified or repealed if:

1. Any other person is authorized to sell electricity at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate;
2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity at retail to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or
3. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final nonappealable order (collectively, "final franchise fee action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

**111.24 OBLIGATION RELIEVED.** The other provisions of this chapter to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefore under each of any of the following circumstances as determined to exist in the sole discretion of Company:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court
2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly.
3. The Iowa Utilities Board, or its successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

**111.25 MANAGEMENT FEES.** The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

**111.26 TERMINATION.** Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

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## CHAPTER 113

# CABLE TELEVISION REGULATIONS

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113.19	Line Extensions	113.39	Reservations
113.20	Service Requirements		

**113.01 DEFINITIONS.** The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Cable television system” means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “FCC” means the Federal Communications Commission.
4. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. “Grantee” means Heritage Communications, Inc., d/b/a Heritage Cablevision, Inc., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. “Private property” means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.
7. “Property of the Grantee” means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

8. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

**113.02 USE OF PROPERTY.** The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. **Laws and Regulations.** The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable thereto.
2. **Restrictions.** The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
  - A. Impair the owner's interest in or title thereto;
  - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
  - C. Adversely affect the then value or character thereof;
  - D. Cause or be likely to cause structural damage thereto, or any part thereof;
  - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
  - F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
  - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or
  - H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

**113.03 TAXES.** The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

**113.04 INSURANCE.** The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. **General Liability.** Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall be not less than \$100,000 as to any one person, \$300,000 as to any one occurrence for injury or death to persons, and \$100,000 for damages to property, with so-called umbrella coverage of at least \$5,000,000.



2. Worker's Compensation. Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.
3. Automobile. Automobile Insurance with limits of not less than \$100,000/\$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000 covering all automotive equipment, with so-called umbrella coverage of at least \$5,000,000.
4. Notice of Cancellation. All of said insurance coverage shall provide a 10 day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.
5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.
6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

**113.05 REPAIRS.** During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

**113.06 HOLD HARMLESS.** During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

**113.07 ASSIGNMENT.** The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without the prior consent of the City.

**113.08 INSOLVENCY OF GRANTEE.** In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the

possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within 60 days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

**113.09 DEFAULT OF GRANTEE.** In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within 30 days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

**113.10 TERMINATION.** Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

**113.11 COMPLIANCE WITH APPLICABLE LAWS.** During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

**113.12 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE.** During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

**113.13 INTERFERENCE.** The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with radio and television reception of persons who are not subscribers of the Grantee.

**113.14 INSTALLATION OF CABLES.** The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

**113.15 RESTORATION OF GROUND SURFACE.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or

surface of any street or alley disturbed, in as good a condition as before said work was commenced.

**113.16 ALTERATION OF GRADE.** In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

**113.17 TEMPORARY REMOVAL OF CABLES.** The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five days' advance notice to arrange for such temporary cable changes.

**113.18 TREE TRIMMING.** The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

**113.19 LINE EXTENSIONS.** It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of 30 homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

**113.20 SERVICE REQUIREMENTS.** During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the control of the Grantee.

**113.21 PERFORMANCE STANDARDS.** The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

**113.22 CHANNEL CAPACITY AND PERFORMANCE.** During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

**113.23 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS.** During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location within such buildings as may be designated

by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

**113.24 TELECAST OF EDUCATIONAL ACTIVITIES.** The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

**113.25 PROGRAM ALTERATION.** Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

**113.26 SUBSCRIBER RATES AND CHARGES.** All rates for service shall be reasonable, compensatory and nondiscriminatory. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege and authority to change the rates and charges.

**113.27 SERVICE RULES AND REGULATIONS.** The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

**113.28 SERVICE AGREEMENTS.** The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

**113.29 PAYMENTS TO CITY.** The Grantee shall pay to the City one percent of its annual "basic monthly cable television service" revenue for the service rendered to customers located within the City. For purposes of this section, "basic service" is defined as the entry level purchase necessary to become a cable television subscriber. All payments as required by the Grantee to the City shall be made annually and shall be due 45 days after the close of the year.

**113.30 INJURY TO PROPERTY OF THE GRANTEE.** No person shall wrongfully or unlawfully injure the property of the Grantee.

**113.31 INTERCEPTING SIGNALS OF THE GRANTEE.** No person shall wrongfully or unlawfully intercept the signals of the Grantee.

**113.32 FILING OF REPORTS.** On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

**113.33 FILING OF MAPS AND PLATS.** On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

**113.34 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES.** The Grantee shall file with the City, copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

**113.35 ACCESS.** The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

**113.36 DISCRIMINATION PROHIBITED.** The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

**113.37 OTHER BUSINESS ACTIVITIES PROHIBITED.** During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

**113.38 ARBITRATION.** Any controversy between the City and the Grantee regarding the rights, duties and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 113.10. Such arbitration shall be before three disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

**113.39 RESERVATIONS.** The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

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## CHAPTER 114

# COMMUNITY CHILD CARE FACILITIES

114.01 Definitions

114.02 Service Charges

114.03 Rates and Services

114.04 Operation and Maintenance

114.05 Billing for Service

114.06 Revenue Fund

114.07 Accounts and Auditing

**114.01 DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

1. “Agreement” means the Management and Use Agreement between the City and school pursuant to Iowa Code Chapter 28E.
2. “Customer” means a person or persons who utilize the services of the facilities.
3. “Facilities” means all property comprising the Community Child Care Facilities, including all improvements, real and personal property, all appurtenances, contracts, leases, franchises and other intangibles.
4. “Person” means any individual, firm, company, association, society, corporation or group.
5. “School” means the Ackley Geneva Wellsburg Steamboat Rock School District.
6. “Service charge” means charges to the school district as authorized by the Council under this chapter as may, from time to time, be amended.

**114.02 SERVICE CHARGES.** There shall be and there are hereby established service charges for the use of the facilities in the City of Ackley, Counties of Franklin and Hardin, Iowa.

**114.03 RATES AND SERVICES.** The school shall pay to the City a monthly fee to be determined by Council and set by a fee schedule resolution.

**114.04 OPERATION AND MAINTENANCE.** In accordance with the terms of the agreement, the school shall be responsible for the general operation and maintenance of the facility, including maintaining necessary insurance for such. In addition, the school shall establish, impose and collect rates and charges sufficient to produce gross revenues sufficient to pay the operation and maintenance of the facilities and to pay the service charge to the City for use of the facilities, all in accordance with the agreement.

**114.05 BILLING FOR SERVICE.** It is hereby made the duty of the school to render bills for service and all other charges in connection with the facilities and to collect all moneys due therefrom pursuant to the agreement.

**114.06 REVENUE FUND.** Except as provided in the agreement, all revenues and monies derived from the operation of the facilities shall be paid to and held by the school separate and apart from all other funds of the school and all of said sums and all other funds and monies incident to the operation of said system, as may be delivered to the school, shall be deposited in

a separate fund designated the “Child Care Facilities Fund”, and the school shall administer said fund in the manner provided by the *Code of Iowa* and other laws pertaining thereto.

**114.07 ACCOUNTS AND AUDITING.** The school shall maintain a proper system of accounts and proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the facilities, and at regular intervals the school shall conduct an audit by an independent audit concern or the State of Iowa of the books to show the receipts and disbursements of the facilities, the results of which shall be given to the City. If necessary, service charge rates will be adjusted by the City to produce adequate income to retire the indebtedness, meet the operation, maintenance and replacement needs and establish required reserves.

[The next page is 611]



**CHAPTER 115**  
**FRANCHISE FEE**

(Repealed by Ordinance No. 524 – Sep. 24 Supp)

[The next page is 645]

## 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 Beer Gardens

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122, and 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.3, and 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

*(Section 120.03 – Ord. 526 – Sep. 24 Supp.)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

*(Ord. 526 – Sep. 24 Supp.)*

*(Code of Iowa, Sec. 123.32(2))*

**120.05 PROHIBITED SALES AND ACTS.** A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

*(Code of Iowa, Sec. 123.49[2b])*

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel

or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

*(Code of Iowa, Sec. 142D.2[1])*

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

*(Code of Iowa, Sec. 142D.2[17])*

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[2k])*

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class "B" retail alcohol license or an establishment employee when employed in compliance with State law.

*(Section 120.05 – Ord. 526 – Sep. 24 Supp.)*

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a retail alcohol license, as specifically authorized in said Chapter 99B.)

*(Code of Iowa, Sec. 99B.57)*

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

*(Section 120.06 – Ord. 526 – Sep. 24 Supp.)*

**120.07 BEER GARDENS.** As used in this section, “beer garden” means any outdoor area where individuals may legally purchase and consume alcoholic beverages. Any person having a valid Class “A,” Class “B” or Class “C” liquor control license may operate a beer garden provided such beer garden meets the following criteria:

1. The beer garden shall abut and be part of the premises included in the operator’s liquor control license.
2. All boundaries of the beer garden not constituting walls of abutting buildings shall be clearly marked such that the parameters of the beer garden are reasonably delineated.
3. At least one adult, competent employee of the operator shall be in attendance in the beer garden at all times the beer garden is in operation.
4. A beer garden shall not be operated prior to 9:00 a.m. on any day or later than 12:00 midnight Sunday through Thursday or later than 2:00 a.m. on Saturday and Sunday. In addition, no loud music or other loud noises shall be allowed after 10:00 p.m. on Sunday through Thursday.
5. All equipment and furnishings used in the operation of a beer garden shall be removed when the beer garden is not in operation.
6. The beer garden shall be kept free of debris and litter at all times.

Failure to comply with the foregoing criteria shall constitute good cause for closing the beer garden.

## 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 and 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 and 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. *(Ord. 526 – Sep. 24 Supp.)*



**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 and 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**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)*

## CHAPTER 122

# PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.09 License Not Transferable
122.02 Definitions	122.10 Time Restriction
122.03 License Required	122.11 Revocation of License
122.04 Application for License	122.12 Hearing
122.05 License Fees	122.13 Record and Determination
122.06 Bond Required	122.14 Effect of Revocation
122.07 License Issued	122.15 License Exemptions
122.08 Display of License	122.16 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 \$2.00 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 license fees shall be paid to the Clerk prior to the issuance of any license, in accordance with the fee schedule established by resolution of the Council.

**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. All licenses issued under this chapter shall expire at 6:00 p.m. of the last day for which the license is issued. No license shall be valid for a period of more than one year following date of issuance.

**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 Council 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 Council 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 Council may proceed to a determination of the complaint.

**122.13 RECORD AND DETERMINATION.** The Council 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 Council finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.14 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.

**122.15 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 Ackley Geneva Wellsburg Steamboat Rock School District conducting projects sponsored by organizations recognized by the school.
5. Persons Under 14. All persons under the age of 14.
6. Sauerkraut Days. Concessions and persons within or near the Central Business District during Ackley Sauerkraut Days.
7. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
8. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
9. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

*(Code of Iowa, Sec. 364.3[13])*

**122.16 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.

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## CHAPTER 123

# JUNK DEALERS

123.01 Purpose	123.08 Refusal; Appeal
123.02 Definitions	123.09 Fee; Duration of License
123.03 License Required	123.10 Revocation of License
123.04 Display of License Required	123.11 Effect of Revocation
123.05 Exemptions	123.12 Rebates
123.06 Persons Entitled to be Licensed	123.13 License Nontransferable
123.07 Licensing Procedure	123.14 Requirements; Regulations

**123.01 PURPOSE.** The purpose of this chapter is to assure that in the conduct of the activities and vocations of junk dealers, the public health, safety and welfare will be protected and maintained.

**123.02 DEFINITIONS.** For use within this chapter the following terms are defined:

1. “Enclosed building” means any structure or portion thereof built for the enclosure of property containing a roof and having exterior walls of the structure or portion thereof constructed in such a manner as to obscure from any street or adjacent property the contents thereof.
2. “Junk” means articles or materials that, because of age, deterioration or use, have lost their original utility or desirability but that by alteration, restoration or salvage may furnish or become an item or items of value.
3. “Junk dealer” means any person engaged in collecting, storing, buying or selling junk.

**123.03 LICENSE REQUIRED.** It is unlawful for any person to act as or engage in the vocation of a junk dealer in the City without having a license as herein provided.

**123.04 DISPLAY OF LICENSE REQUIRED.** Every junk dealer shall display his or her license in a prominent manner at a place upon the business premises where business is commonly transacted with the public.

**123.05 EXEMPTIONS.** This chapter shall not be construed to require a license of each employee or agent of one engaged in a licensed occupation. Only the owner, manager or agent of such an occupation need possess a license.

**123.06 PERSONS ENTITLED TO BE LICENSED.** Any person who satisfies all the conditions prescribed by this chapter for a particular license, and satisfies the Clerk that such occupation does not and will not endanger the public health, safety or welfare, shall be entitled to a license upon filing a proper application and paying the full fee required.

**123.07 LICENSING PROCEDURE.** The licensing procedure shall be as follows:

1. Fee Payment. All fees required by this chapter shall be paid to the Clerk, who shall give the applicant a written receipt showing the sum received and the time of receipt.

2. Application. Application for any license under this chapter shall be in writing on forms furnished by the Clerk. Every application shall include the applicant's full name, the address of his or her place of residence, the address of the business establishment or office (if any), and local address (if any). If the applicant is a corporation or other association, it shall also list the names and addresses of its principal officers. The application shall be filed with the Clerk. If the Clerk determines that the application is in proper form and that all of the prescribed conditions for the issuance of the license have been satisfied, the Clerk shall immediately issue the license bearing the Clerk's signature and the signature of the Mayor and the time of issuance.

**123.08 REFUSAL; APPEAL.** If the Clerk refuses to issue a license, the Clerk shall endorse the reasons upon the application. The applicant shall then 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, if a quorum, and the Clerk shall carry out the Council's decision.

**123.09 FEE; DURATION OF LICENSE.** The fee for a junk dealer's license shall be ten dollars (\$10.00) and the license shall expire one year after the time of issuance.

**123.10 REVOCATION OF LICENSE.** The Council, after giving the licensee reasonable notice and a fair hearing, may revoke any license issued under this chapter for the following reasons:

1. The licensee has made fraudulent statements in the application for the license or in the conduct of business;
2. The licensee has violated this chapter or has otherwise conducted business in an unlawful manner;
3. The licensee has conducted business in a manner endangering the public health, safety, or welfare.

The notice shall be in writing and shall be served personally by the Police Chief or as required by the Iowa Rules of Civil Procedure. The notice shall state the time and place of the hearing and the reasons for the intended revocation.

**123.11 EFFECT OF REVOCATION.** Revocation of a license shall bar the licensee from obtaining another license for a period of one year.

**123.12 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid upon surrender of the license to the City at a date prior to expiration. The rebate shall be determined by dividing the number of days for which the license was issued into the total license fee and then multiplying the result by the number of full days not expired. In all cases \$1.00 of the original fee shall be retained by the City to cover administrative costs of canceling the license.

**123.13 LICENSE NONTRANSFERABLE.** In no case shall a license issued under this chapter be transferable to another person or be used for a purpose other than that for which it was issued.

**123.14 REQUIREMENTS; REGULATIONS.** All applicants for a license and all licensees shall comply with the following requirements and regulations. Violations of any of these requirements and regulations shall be cause for denial or revocation of a license:



1. The applicant or licensee shall maintain a permanent record book that shows a description of each item received, the name and address of the person from whom it was received, the quantity or weight of each item, the amount paid, and the time and date of the transaction.
2. The applicant or licensee shall segregate each day's collection for a period of 48 hours. During this period no item shall be disposed of or altered in any manner.
3. The applicant or licensee shall not purchase or receive junk from a minor unless he or she first receives a written consent of the minor's parent or guardian. Such consent shall be attached to the record book as a part of the permanent record.
4. The Mayor or a member of the Council shall be permitted to inspect the premises periodically, during normal business hours, for the existence of materials or conditions dangerous to the public health or welfare. Acceptance of the license shall constitute consent by the licensee.
5. The applicant or licensee shall eliminate from the premises all rats, mice, and other rodents and vermin.
6. All junk containing any gasoline or other flammable fuel shall be stored within an enclosed building.
7. All junkyards shall be enclosed with a solid, wooden fence, properly painted and maintained, which hides the contents of the yard from public view. Such fence shall extend from the ground to a height at least equal to the tallest article or accumulation of junk in the yard, but in no case shall such fence be less than 10 feet high.

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## CHAPTER 124

# ADULT ENTERTAINMENT

### 124.01 Definitions

### 124.02 Regulations

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

1. “Adult amusement or entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
2. “Adult book store or gift shop” is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.
3. “Adult hotel or motel” means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.
4. “Adult photo studio” is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined herein.
5. “Adult theater” is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the patrons therein.
6. “Adult uses” includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.
7. “Massage parlor” is any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician’s direction, physical therapist, podiatrist, registered speech pathologist and physical or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician’s direction, whether with or without the use of mechanical, therapeutic or bathing devices, and includes Turkish bath houses. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

8. “Specified anatomical areas” means less than completely and opaquely covered human genitalia, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state — even if completely and opaquely covered.
9. “Specified sexual activities” means patently offensive acts, exhibitions, representations, depictions or descriptions of:
  - A. Human genitals in a state of sexual stimulation or arousal;
  - B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;
  - C. Intrusion, however slight, actual or simulated, by an object, of any part of an animal’s body or any part of a person’s body into the genital or anal openings of any person’s body;
  - D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated;
  - E. Flagellation, mutilation or torture, actual or simulated, in a sexual context.

#### **124.02 REGULATIONS.**

1. **Location.** An adult use shall not be located within 1,000 feet of another adult use, nor shall the adult use be located within 1,000 feet of any public or parochial school, regularly scheduled school bus stop, licensed day care facility, church, public park, or any dwelling (one-family, two-family or multiple dwelling) or within 1,000 feet of City Hall. The 1,000-foot restriction shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial school, licensed day care facility, church, public park, dwelling or City Hall, by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.
2. **Concealment.** All building openings, entries, windows, etc., of an adult use shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Advertisements, displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, walkways or from other public or semi-public areas.
3. **Minors.** No minor shall be permitted in any establishment in which adult uses are permitted.
4. **Public Exposure.** Except as hereinafter provided, no person shall expose those parts of his or her body which are hereinafter listed to another in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place:
  - A. A woman’s nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.
  - B. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This subsection does not apply to limited or minimal exposures incident to the use of public rest rooms or locker rooms or such other places where such exposures occur

incident to the prescribed use of those facilities. This subsection also does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.09 Excavations
135.02 Obstructing or Defacing	135.10 Property Owner's Responsibility for Maintenance
135.03 Placing Debris On	135.11 Failure to Maintain
135.04 Playing In	135.12 Dumping of Snow
135.05 Traveling on Barricaded Street or Alley	135.13 Maintenance of Alleys
135.06 Use for Business Purposes	135.14 New Alleys
135.07 Washing Vehicles	135.15 Enforcement
135.08 Burning Prohibited	

**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. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
5. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, 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.
6. 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.
7. 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.
8. 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*.



9. Permit Fee. A permit fee of \$25.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
10. 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. The abutting property owner shall not place, nor allow placement of any improvements except as is allowed under Chapter 136 (sidewalks) and Chapter 151 (trees). In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.<sup>†</sup>

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

**135.11 FAILURE TO MAINTAIN.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax. In addition, the City shall not be responsible for the abutting property owner's failure to maintain as defined in Section 135.10. Specifically, the City shall not be responsible for damage to any landscaping structures or vegetation in the public right of way between the curb and the property line if the City digs the area for water or sewer purposes. Additionally the City will not be responsible for items in the parking or terrace area damaged by a City snow plow.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 MAINTENANCE OF ALLEYS.** If an alley has a rock or gravel surface or paved approach it will be the responsibility of the property owners along said alley to share the cost of paving the approach, purchasing rock or gravel for maintaining the alley, and having it trucked to the alley site. The City Street Department will spread, level, and grade the rock or gravel on the alley at no cost to the property owners. The City will not provide or share in the cost of the gravel or rock, the hauling charge, or paving of alley approaches. If an alley has to be dug up for repairs or replacement involving City sanitary sewer, storm sewer, or water mains, the City will provide the gravel or rock to replace the surface, and will provide the spreading and grading

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<sup>†</sup> **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

of same. If an alley contains water service lines or sewer lines to structures along the alley and repairs or replacements need to be made, it will be up to those property owners affected to pay the cost of replacing the alley surface. The City Street Department will plow snow through alleys that have rock or gravel; however, plowing snow in alleys will be second priority to plowing streets. The City will maintain alleys in the downtown business/commercial district, whether they are paved with asphalt, or coated with gravel/rock. This will be at no cost to the adjoining commercial property owners, unless the adjoining commercial property owners agree to a cost share.

**135.14 NEW ALLEYS.** The City has final discretion to decide whether or not to go forward with creating a new alley, or opening up a platted alley within the City limits.

**135.15 ENFORCEMENT.**

1. Citation. Upon discovery of any violation of this chapter the City may issue a citation in the amount of \$25.00 for 1<sup>st</sup> offense, \$50.00 for 2<sup>nd</sup> offense and \$100.00 for 3<sup>rd</sup> and subsequent offenses.

2. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the Council by issuing a written request for such a hearing to the Clerk at City Hall within seven days of the date of the citation. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the Council a written request for the filing of a municipal infraction in court must be delivered to the City Clerk at City Hall within 15 days after the hearing held before the City Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have violated Chapter 135 of the City Code.

3. If a person subject to a scheduled civil penalty under this section does not request a hearing before the Council or said person does not request the filing of a municipal infraction in court after the hearing held before the Council said person shall be deemed to have waived his or her right to dispute the finding of a violation and the scheduled civil penalty imposed under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.

## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	136.20 Enforcement

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations of two or more inches promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within 48 hours after cessation of snowfall, the City may make an attempt by telephone or by police officer to contact the owner and warn them of the infraction. If property owner does not remove the snow, ice or accumulations promptly after the warning, or if the City is unable to contact the property owner, the City may remove the snow, ice or accumulations and assess the costs against the property owner for collection in the same manner as a property tax. Any property owner who violates the provision of this section will be given one warning per season

and the City will be authorized to respond to additional violations without additional warnings being given. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

**136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall 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 and 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.**

1. Permit Required. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and is agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.
2. Time for Completion. Each permit shall provide for a time for completion. In no event shall any construction of sidewalk take longer than 270 days.
3. Failure to Timely Complete. In the event the construction or reconstruction of sidewalk is not timely completed the City, after issuance of a citation as provided in Section 136.20, may elect to complete the construction or reconstruction and assess the costs against the abutting property owner for collection in the same manner as a property tax. Failure to timely complete a construction or reconstruction shall constitute a violation of this chapter. Each day the construction exceeds the permit is a separate violation.

**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 four 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) on 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.

**136.20 ENFORCEMENT.**

1. Citation. Upon discovery of any violation of this chapter the City may issue a citation in the amount of \$25.00 for 1<sup>st</sup> offense, \$50.00 for 2<sup>nd</sup> offense and \$100.00 for 3<sup>rd</sup> and subsequent offenses.

1. Any person subject to a scheduled civil penalty imposed under this section who desires to contest the penalty must first request a hearing before the Council by issuing a written request for such a hearing to the Clerk at City Hall within seven days of the date of the citation. If a person subject to a scheduled civil penalty under this section wishes to continue to dispute the imposition of the scheduled civil penalty after the hearing held before the Council a written request for the filing of a municipal infraction in court must be delivered to the City Clerk at City Hall within 15 days after the hearing held before the City Council. The issuance of a request that a municipal infraction be filed in court will cause a penalty amount of \$375.00 to be added to the original scheduled penalty plus court costs if the person subject to the scheduled civil penalty is found by the court to have violated Chapter 135 of the City Code.

If a person subject to a scheduled civil penalty under this section does not request a hearing before the Council or said person does not request the filing of a municipal infraction in court after the hearing held before the Council said person shall be deemed to have waived his or her right to dispute the finding of a violation and the scheduled civil penalty imposed under this section, and the violation will be deemed admitted with the scheduled civil penalty due and owing to the City.

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## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate  
137.02 Planning and Zoning Commission  
137.03 Notice of Vacation Hearing

137.04 Findings Required  
137.05 Disposal of Vacated Streets or Alleys  
137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.  
*(Code of Iowa, Sec. 364.12[2a])*

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.  
*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.  
*(Code of Iowa, Sec. 364.7)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.  
*(Code of Iowa, Sec. 174.15[2] and 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
56		366	
58		377	February 20, 1998
61		380	September 9, 1998
79		384	March 10, 1999
106		387	April 14, 1999
108		416	May 12, 2003
109		427	May 10, 2004
116		430	February 14, 2005
117		456	April 11, 2012
136			
138			
145			
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187			
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311			
356			

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## CHAPTER 138

# STREET GRADES

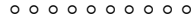
**138.01 Established Grades**

**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.

<b>EDITOR'S NOTE</b>			
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.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
55			
77			
82			
135			
144			
152			
171			
188			
214			
249			
265			
271			
319			
393	May 10, 2000		



## CHAPTER 139

# NAMING OF STREETS

139.01 Naming New Streets  
139.02 Changing Name of Street  
139.03 Recording Street Names

139.04 Official Street Name Map  
139.05 Revision of Street Name Map

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Ackley, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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## CHAPTER 145

# DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 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 Council is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 and 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This

notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ACKLEY, 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])*

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<sup>†</sup> **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.



**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.02 Conversion to Real Property

### 146.03 Foundation Requirements

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

*(Code of Iowa, Sec. 435.1)*

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

*(Code of Iowa, Sec. 435.26)*

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

*(Code of Iowa, Sec. 103A.10 and 414.28)*

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## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half 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 except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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## CHAPTER 155

# DEMOLITION OF BUILDINGS

155.01 Demolition Permit  
155.02 Permit Requirements  
155.03 Scope of Work

155.04 Owner's Responsibility  
155.05 Restoration of Public Property  
155.06 Inspection

**155.01 DEMOLITION PERMIT.** No person shall demolish any building/structure within the City without first obtaining a written application for demolition permit for the same from the City.

**155.02 PERMIT REQUIREMENTS.** Demolition permits may be obtained from the office of the City Clerk. The party requesting the permit must supply the City with the schedule of demolition, including starting and completion dates.

**155.03 SCOPE OF WORK.** No person shall demolish any building/structure without providing for the appropriate disconnection of all utilities to include sanitary sewer connection shall be plugged and made watertight and water connection turned off at the corporation stop and made watertight. The basement walls and foundation shall be completely removed and the hole filled to one (1) foot above the average grade with clean fill dirt. The area shall be properly barricaded to discourage trespassing.

**155.04 OWNER'S RESPONSIBILITY.** It is the responsibility of the property owner to see that the contractor and workers are properly covered with property and liability insurance and that the demolition is completed within 180 days of issuance of permit and that all debris is removed.

**155.05 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 or property owner.

**155.06 INSPECTION.** All work shall be subject to inspection by the City. The permit holder or property owner shall provide the City with notice of at least 24 hours prior to the time when backfill is desired to be placed.

*(Chapter 155 – Ord. 525 – Sep. 24 Supp.)*

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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 Non-Conforming 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 purposes 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 or subdivision” 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 Maps. 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. 400 square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window panes;
  - E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within the City subject to the base flood. This land is identified on the City's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether 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 of the *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. 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. 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.

C. The ordinance codified in this chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

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. A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. B. 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.
- C. C. 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.
- D. D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

### **160.03 GENERAL PROVISIONS.**

1. **Lands to Which Chapter Applies.** The provisions of this chapter shall apply to all lands and development which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Hardin County and Incorporated Areas, City of Ackley, Panel(s) 19083C0080C, 0085C, 0090C, 0095C dated June 19, 2012, which were prepared as part of the Hardin 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. The Flood Insurance Study for Hardin County is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.
2. **Rules for Interpretation of Flood Hazard Boundaries.** The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning 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 Administrator.

A. The Zoning Administrator 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 Administrator of any annexations or modifications to the community's boundaries.
- (8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the Planning and Zoning Commission of potential conflict.
- (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

- a. Development placed within the Floodway results in an increase in the base flood elevations or alteration to the floodway boundary.
- b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
- c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

(11) Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications, as well as any additional information deemed necessary to the Board of Adjustment.

1. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of material and equipment, excavation, or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- (7) For 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 Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

**160.05 FLOODPLAIN MANAGEMENT STANDARDS.** All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the base flood elevation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where: (i) the bridge or culvert is located on a stream that drains less than two square miles; and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567 IAC 71.2(2).

1. All Development. All development within the special flood hazard areas shall:
  - A. A. Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
  - B. B. Use construction methods and practices that will minimize flood damage.
  - C. C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from federal, State, and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot 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 subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be

adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

3. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

A. B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. C. New and substantially improved structures must be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated or flood-proofed to a minimum of one foot above the base flood elevation.

- D. New and substantially improved structures shall be constructed with plumbing, gas lines, water meters, gas meters, and other similar service utilities, either elevated (or, in the case of non-residential structures, optionally flood-proofed to) a minimum of one foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.
5. Factory-Built Homes:
- A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.
- B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.
6. Utility and Sanitary Systems:
- A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.
- C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.
- D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion.

In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

- A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.
- B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- D. The structure shall be firmly anchored to resist flotation, collapse, and lateral movement.
- E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
- F. The structure's walls shall include openings that satisfy the provisions of Subsection 4(A) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

- A. Recreational vehicles are exempt from the requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and
  - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential uses 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 flood proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

#### **160.06 VARIANCE PROCEDURES.**

1. The City Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the

issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors upon Which the Decision of the Board of Adjustment 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 City.

F. The requirements of the facility for a floodplain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.

M. Such other factors which are relevant to the purpose of this chapter.

1. 3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

A. Modification of waste disposal and water supply facilities.

B. Limitation of periods of use and operation.

C. Imposition of operational controls, sureties, and deed restrictions.



D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**160.07 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. 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.

2. Except as provided in Subsection 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 misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

**160.09 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.







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# CHAPTER 165

## ZONING REGULATIONS

165.01 Title	165.21 M-1 – Light Industrial District
165.02 Interpretation of Standards	165.22 M-2 – General Industrial District
165.03 Definitions	165.23 Buffers
165.04 Administration and Enforcement	165.24 Site Plans
165.05 Building Permits	165.25 Accessory Buildings, Garages, and Containers
165.06 Authorization to Commence Construction	165.26 Open Space Requirements
165.07 Certificate of Zoning Compliance	165.27 Fences, Walls and Vision Clearance
165.08 Construction, Use Compliance Required	165.28 Lots
165.09 Pending Applications for Building Permits	165.29 Yards
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165.11 Zoning Map	165.31 Outdoor Advertising Signs
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165.15 R-1 – Single Family Residential District	165.35 Appeal; Council’s Administrative Duties
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165.19 C-2 – Central Business Commercial District	165.39 Appeals from Decisions of Board
165.20 C-3 – Light Commercial District	165.40 Enforcement

**165.01 TITLE.** This chapter shall be known as “The Zoning Ordinance for the City of Ackley, Iowa.”

**165.02 INTERPRETATION OF STANDARDS.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules and regulations or ordinances, the provisions of this chapter shall control.

**165.03 DEFINITIONS.** For the purpose of this chapter, the following terms are defined. As used herein, the words “used” or “occupied” include the words “intended, assigned, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel,” and all other words or phrases used to denote an individual building site which complies with the minimum provisions of this chapter.

1. “Accessory living quarters” means living quarters within an accessory building for the sole use of persons fully employed on the premises or for temporary use by guests of the occupants of the premises.
2. “Accessory use or structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
3. “Agriculture” means the use of land for agricultural purposes, including animal husbandry, apiculture, dairying, farming, floriculture, forestry, grove, horticulture, orchards, poultry husbandry, ranching, viticulture and the necessary accessory uses for packing, treating or storing the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agriculture activities.
4. “Alley” means a public way, other than a street, 26 feet or less in width, affording secondary means of access to abutting property. An alley is not considered a public thoroughfare.

5. "Amendment" means a change in the wording, context or substance of this chapter, or a change in the zoning or district boundaries of the "Official Zoning Map," a part of this chapter, when adopted by Ordinance passed by the Council in the manner prescribed by law.
6. "Automobile wrecking" means the dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot, parcel or tract of land, of three or more vehicles which for a period exceeding 30 days have not been capable of operating under their own power, and from which parts have been removed or are to be removed for reuse, salvage or sale, shall constitute *prima facie* evidence of an automobile wrecking yard.
7. "Basement" means a story having more than one-half its height below grade. A basement is not counted as a story for the purpose of height regulation, provided that the finished floor level directly above is not more than six feet above grade.
8. "Basement, walkout" means a basement having a portion of its finished floor not more than four feet below the finished yard grade at any of its exterior walls and having not less than two-thirds of the vertical height of an exterior wall, which has a ground level exit to the outside, above ground. A walkout basement is considered the ground floor level of the building and is counted as a story.
9. "Billboard" means all structures, regardless of the base of materials used in construction of the same, that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertises a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
10. "Block" means all that property frontage along one public thoroughfare lying between the two nearest intersecting or intercepting streets, railroad right-of-way, waterway, golf course, campus, park or other similar open space.
11. "Board" means the Board of Adjustment of the City.
12. "Boardinghouse" means a building other than a hotel, where for compensation, meals and lodging are provided for four or more persons, but does not include "rest homes."
13. "Boundary of district" means the centerline of a street or right-of-way or the centerline of the alleyway between the rear or side property lines or, where no alley or passageway exists, the rear or side property lines of all lots bordering on any district limits or any district boundary shown on the maps adopted by this chapter.
14. "Building" means any structure having a roof supported by walls or by columns intended for enclosure, shelter or housing of persons, animals, or chattel. When any portion thereof is entirely separated by walls in which there are no communicating doors or windows or any similar opening, each portion so separated shall be deemed a separate building. A storage container or shipping container or any other temporary, moveable container shall not constitute a building.
15. "Building, height of" means the vertical distance from the average finished ground grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

16. "Building line" means the extreme overall dimensions of a building as determined from its exterior walls and as staked on the ground, including all areas covered by vertical projection to the ground or overhang of walls, or any part of a primary structural support or component which is nearest to the property line. (See "setback.")
17. "Building site" means the ground area of one lot, or the ground area of two or more lots which have been combined for the use of one building or permitted group of buildings, together with all open spaces required by this chapter. (See "lot.")
18. "Bulk stations" means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than 12,000 gallons.
19. "Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematory, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
20. "Centerline, public thoroughfare" means a line running parallel with the thoroughfare right-of-way which is half the distance between the extreme edges of the official right-of-way width.
21. "Certified survey" means a sketch, plan, map, or other exhibit bearing a written statement of its accuracy or conformity to specified standards which is signed and sealed by a registered surveyor.
22. "Church" means any building or site whose primary use is public religious worship.
23. "Club" means an association of persons for some common nonprofit purpose, but not including groups organized primarily to render a service which is customarily carried on as a business.
24. "Cocktail lounge, cabaret" means any place of business, other than a "night club," located in and accessory to a hotel, motel, or restaurant, where liquor, beer or wine is sold for consumption on the premises, where music or other entertainment is limited to a piano bar or other one-person performance and dancing is prohibited. (See also "tavern," and "night club.")
25. "Commercial use" means the barter, exchange, sale, service or trade of goods, materials or services, either tangible or intangible, for financial, material or monetary gain.
26. "Commission" means the Planning and Zoning Commission of the City.
27. "Conditional permit" means a permit issued in view of specified conditions, limitations or restrictions and which is subject to review or cancellation by the issuing department.
28. "Court" means an open, unoccupied and unobstructed space, except for trees, shrubs, statuary or other articles normally considered accessory to landscaping, which is bounded on two or more sides by a building on the same lot.
29. "Crown of road" means the grade at the centerline of the pavement within a public thoroughfare, or where no pavement exists, grade at the right-of-way centerline.

30. “District” means a section or sections of land area, depicted on the Official Zoning Map, within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
31. “Dog kennel” means the keeping of any dog or dogs, regardless of number, for sale, breeding, boarding or treatment purposes, except in a dog hospital, dog beauty parlor or pet shop, as permitted by law, or the keeping of three or more dogs, six months or older, on premises used for residential purposes, or the keeping of more than one dog on vacant property or on property used for business or commercial purposes.
32. “Dump” means a premises used for the disposal of “clean” type fill or refuse such as dirt, rocks, cans, tree branches and similar materials, but not including organic matter of any type such as garbage or dead animals or portions thereof.
33. “Dwelling” means any stationary, permanent building or any portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer or trailer coach.
34. “Dwelling, multiple” means a building or buildings, on a common lot designed for and used for occupancy by three or more families living independently of each other and containing three or more dwelling units.
35. “Dwelling, one-family” means a detached building, on a building site, designed for and used exclusively for residential purposes by one family and containing one dwelling unit.
36. “Dwelling, two-family” means a building designed for and used exclusively for occupancy by two families living independently of each other and containing two dwelling units.
37. “Dwelling unit” means one or more rooms in a dwelling, multiple dwelling or apartment hotel, used for occupancy by one family as a home or residence for living or sleeping purposes and in which the cooking and sanitary facilities are designed for the use of one family only.
38. “Family” means one or more legally related persons occupying a single dwelling unit.
39. “Farm” means an area comprising ten acres or more which is used for agriculture.
40. “Frontage” means the distance of a front lot line as measured along the public thoroughfare. (See “lot lines, front.”)
41. “Garage, community” means a structure, or a series of structures under one roof, and under one ownership, used primarily for storage of vehicles by three or more owners or occupants of property in the vicinity.
42. “Garage, mechanical” means a structure in which major mechanical repair or rebuilding of motor powered vehicles is performed for commercial gain and in which the storage, care and minor servicing is an accessory use.
43. “Garage, private” means an accessory building, or accessory portion of the main building, designed or used for the shelter or storage of vehicles owned or operated by the occupants of the main building. A private garage of less than three-car capacity may be rented for the private vehicles of persons not residents on the premises.



44. “Garage, public” means a structure other than a private garage, used for the shelter or storage of motor powered vehicles and in which the care, minor servicing, washing, etc., is an accessory use.

45. “Gas station” means a structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities or accessories for motor vehicles and including the customary space and facilities for the installation of such commodities or accessories on or in such vehicles, but not including space or facilities for the storage, painting, repair, refinishing, body work or other major servicing of motor vehicles.

46. “Grade,” for the purposes of this chapter, means:

A. For buildings having walls adjoining one street only, the elevation of the regularly established sidewalk grade at the center of the wall adjoining the street;

B. For buildings having walls adjoining more than one street, the average elevation of the regularly established sidewalk grades at the center of walls adjoining the street;

C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is considered as adjoining the street.

47. “Greenhouse” means a building or accessory structure constructed chiefly of glass or other translucent material, which is devoted to the protection or cultivation of flowers or other tender plants.

48. “Guest house” means an accessory building used as a dwelling unit by domestic employees or for temporary use by guests of the occupants of the premises. A guest house shall not be rented, occupied year-round by the same guest, nor shall the owner occupy the guest house and rent the principal residence.

49. “Half-story” means a story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor area of the floor immediately below it.

50. “Home occupation” means any occupation or profession conducted solely by resident occupants in their place of abode, involving primarily services and not the sale of commodities upon the premises; provided that not more than one-quarter of the area of not more than one floor level of the building may be used in pursuit of the occupation, and in connection therewith there is used no sign other than one name plate affixed to the outer wall of not more than one square foot in area that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and not more than one person other than the occupants of the building may be employed.

51. “Hospital” means an institution specializing in giving clinical, temporary and emergency service of a medical or surgical nature to injured persons and patients, other than persons suffering from a lingering mental sickness, disease, disorder or ailment.

52. “Hotel” means a building occupied as the more or less temporary residence of individuals who are lodged, with or without meals, and in which there are six or more sleeping rooms or suites of rooms with no provisions made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office.

53. “Junk” means old and dilapidated automobiles, trucks, tractors and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, used building materials, scrap contractor’s equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed for barter, resale, reuse, salvage, stripping, or trade.

54. “Junk yard” means any area where junk is bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking or structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials necessary as a part of manufacturing operations.

55. “Kitchen” means any room or portion of a building used, intended or designed to be used for cooking and other preparation of food, including any room having a sink and provisions for either a gas or electric stove.

56. “Loading space” means any off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking (less than twenty-four hours) of a commercial vehicle while loading or unloading merchandise or materials.

57. “Lodging house” means a building where lodging is provided for compensation for four or more persons.

58. “Lot” means, for zoning purposes, a parcel of real property of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required in this chapter. Such lot shall have frontage on a dedicated street, and may consist of any one of the following:

- A. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- B. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter.
- C. A portion of a lot of record.
- D. Single lot of record.

59. “Lot lines,” for the purpose of this chapter, mean:

- A. Front: The line separating the front of the lot from the street. In the case of a corner lot, that part of the lot having the narrowest frontage on any street shall be considered the front lot line.
- B. Rear: The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of an interior triangular or gore-shaped lot, it means a straight line 10 feet in length which:
  - (1) Is parallel to the front lot line or its cord.
  - (2) Intersects the two other lot lines at points most distant from the front lot line.
- C. Side: Any lot boundary line not a front lot line or a rear lot line.

60. “Lot measurements,” for the purpose of this chapter, mean:
- A. Area: The gross area, exclusive of streets or other public rights-of-way, within the boundary lines of a lot.
  - B. Depth: The mean horizontal distance between the front and rear lot lines as measured perpendicular to the midpoint of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints at the front and rear lot lines.
  - C. Width: The horizontal distance between the side lot lines as measured perpendicular to the line compromising the lot depth at its point of intersection with the required minimum front setback. Where the lot width is decreasing from front to rear, the horizontal distance between the side lot lines as described above shall be measured at its point of intersection with the required minimum rear setback.
61. “Lot of record” means a lot which is part of a subdivision, the deed of which is recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
62. “Lot types,” for the purpose of this chapter, mean:
- A. Corner Lot: A lot located at the intersection of two or more streets, and having the street right-of-way abut the front and one or more side lines of the lot.
  - B. Double Frontage Lot: A lot, other than a corner lot, with frontage on more than one street or public thoroughfare which do not intersect one another.
  - C. Interior Lot: A lot, other than a corner lot, having frontage on but one street or public thoroughfare.
  - D. Key Lot: A lot so subdivided as to have its side lines coincide with the rear lot lines of adjacent lots on either or both sides of the aforesaid key lots.
  - E. Reversed Frontage Lot: A corner lot, the side street line of which is substantially a continuation of the front lot line of the first interior lot to its rear.
63. “Mental institution, hospital or home” means an institution specializing in giving clinical and psychiatric aid and treatment to and in conjunction with the housing of persons and patients suffering from a temporary or lingering mental ailment, disorder or sickness.
64. “Motel, or motor hotel” means a building or group of two or more buildings designed to provide sleeping accommodations for transient or overnight guests, with garage attached or parking facilities conveniently located to each such unit.
65. “Museum” means a building or part of building used for the display of artifacts of artistic, cultural or historic value which is open to the public at regular or scheduled hours and not as part of or in connection with any residential usage.
66. “Night club” means any place of business located within any building or establishment, established and operated for the purpose of supplying entertainment or music, or both, and providing meals and refreshments prepared on the premises, having a seating capacity of not less than 40 people at tables, providing a dance floor containing not less than 308 square feet and serving beer, wine or liquor for consumption on the premises.

67. “Nonconforming use” means the use of a building or land or any portion thereof, which was lawfully established and maintained, but which, because of the application of this chapter to it, no longer conforms to the use regulations of the district in which it is located.

68. “Nonprofit institution” means a nonprofit establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, educational or similar services to the public, groups, or individuals. Cooperative nonprofit associations, performing a service normally associated with retail sales or trade such as cooperative groceries, granaries, equipment sales, etc., shall not be considered a nonprofit institution under this chapter.

69. “Nursing and convalescent homes” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane or other mental cases, inebriate or contagious cases.

70. “Parking area, public” means an open area, other than a street or alley, which is used for the temporary parking of more than four automobiles and is available for public use, whether free, for compensation, or as an accommodation for clients or customers.

71. “Parking space, automobile” means an area other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than 10 feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress. Where four or more automobile parking spaces are to be grouped as a common facility meeting a requirement of this chapter, the individual car spaces, plus the area necessary for driveways, shall total not less than 315 square feet per car space.

72. “Place of business” means any vehicle, building, structure, yard, area, lot, premises, or part thereof, or any other place in which or on which one or more persons engage in a gainful occupation.

73. “Premises” means any lot, plot, parcel or tract of land, building or buildings, structure or structures, used publicly or privately as a place of business, dwelling or meeting place.

74. “Principal building” means the building situated or to be placed nearest the front property line and the use of which conforms to the primary use permitted by the zoning classification in which it is located.

75. “Public thoroughfare” means any right-of-way under the jurisdiction and maintenance of the governmental agencies of the Federal, State and Municipal government; which may be used by the public in general, and which serves as the frontage street to the abutting property. (See “street.”)

76. “Residential” or “residence” means any lot, plot, parcel, tract, area, or piece of land or any building used exclusively for family dwelling purposes or intended to be used, including concomitant uses specified herein.

77. “Restaurant” means a building, room or rooms, not operated as a dining room in connection with a hotel, motel, or other multiple dwelling, where food is prepared and served to a group of families, a club or to the public and for consumption on the premises.

78. “Rest home” means a home operated as a boarding home and in which nursing, dietary and other personal services are furnished to convalescents, invalids and aged

persons, but in which no persons suffering from a mental sickness, disease, disorder or ailment or from a contagious or communicable disease are kept, and in which no surgical or other primary treatments such as are customarily provided in sanitariums or hospitals are performed.

79. “Resubdivision” means any change in the shape or size of any lot, tract or parcel of land previously platted for the purpose, whether immediate or future, of sale, rent, lease, building development, anchorages or other use. “Resubdivision” also means any change in the shape or size of any lot, tract or parcel of land previously approved for building purposes whether immediate or future and regardless of whether or not the same is vacant or improved in whole or in part, for sale, rent, lease, building development, anchorage or other use.

80. “Rooming house” means a residential building used, or intended to be used, as a place where sleeping accommodations are furnished or provided for pay, but which does not maintain a public dining room or cafe in the same building, or in any building in connection therewith.

81. “Sanitarium” means a health station or retreat or other place where resident patients are kept and where medical or surgical treatment is given to persons suffering from a sickness, disease, disorder or ailment other than a mental sickness, disease, disorder or ailment, but which does not specialize in giving clinical, temporary or emergency service.

82. “Section” means a section of this chapter unless some other ordinance, code or statute is indicated.

83. “Servant’s quarters” means a secondary residential building occupied by a domestic employee of the occupant of the principal residential building and conforming to the restrictions of this chapter, including those for accessory buildings.

84. “Setback” means the minimum horizontal distance between the front, rear or side lines of the lot and the front, rear or side lines of the building, respectively. When two or more lots under one ownership are used, the exterior property line of the lots so grouped shall be used in determining setbacks.

85. “Sign” means any device designed to inform, or attract the attention of persons not on the premises on which the sign is located; provided, however, the following shall not be included in the application of the regulations herein:

A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

B. Flags and insignias of any government except when displayed in connection with commercial promotion.

C. Legal notices, identification, information, or directional signs erected or required by governmental bodies.

D. Intrinsic, decorative or architectural features of buildings, except letters, trademarks or moving parts.

E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

86. “Signs, number and surface area,” for the purpose of determining number of signs, means a single display surface or displaying device containing elements

organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element is considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area, except where such frames and structural members are used as an integral primary or subsidiary portion of the graphic, literal or numerical display, such as forming a picture frame to facilitate continuity or providing contrasts to emphasize the intended purpose of the sign.

87. "Sign, on-site" means a sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

88. "Sign, off-site" means a sign other than on-site sign. (See "billboard.")

89. "Stables," for the purpose of this chapter, mean:

A. Private: A building or structure used, or intended to be used for housing horses belonging to the owner of the property and for noncommercial purposes.

B. Public and Riding Academy: A building or structure used or intended to be used for the housing only of horses on a fee basis. Riding instructions may be given in connection with a public stable or riding academy.

C. Riding Club: A building or structure used or intended to be used for the housing only of horses by a group of persons for noncommercial purposes.

90. "Story" means that portion of a building included between the upper surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it is considered a story. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar is considered a story.

91. "Street" means a public thoroughfare which affords the principal means of access to the abutting property. (See "public thoroughfare.")

92. "Street line" means a dividing line between a lot, tract or parcel of land and a contiguous street. (See "lot line, front.")

93. "Structural alterations" means any replacement or change in the shape or size of any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joist, roof joist, or roof trusses, beyond ordinary repairs and maintenance.

94. "Structure" means anything constructed or erected with a rigid or fixed location on the ground, or attachment to something having a permanent location on the ground including buildings, walls, fences, signs, light standards, towers, tanks, etc. A storage container or shipping container or any other temporary, movable container shall not constitute a structure.

95. "Subdivision" means a division of a lot, tract or parcel of land into three or more lots, plats, sites, or other subdivisions of land for the purpose, whether immediate

or future, of sale, rent, lease, building development, anchorage, right-of-way dedication, or other use.

96. "Tavern" means any place devoted primarily to the selling, serving or dispensing and drinking of malt, vinous or other alcoholic beverages or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon, and where such beverages are consumed on the premises. (See also "cocktail lounge" and "night club.")

97. "Tent" means any structure or enclosure, the roof or one-half or more of the sides of which are of silk, cotton, canvas, nylon, or any light material, either attached to a building or structure, or unattached.

98. "Tourist cottage" means a single-family dwelling used as one of the units of a tourist park.

99. "Tourist home" means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers, the building located either singularly or as a part of a tourist park.

100. "Tourist park" means any lot or plot of real property upon which three or more single-family camp cottages, or two or more trailers, or any combination of tourist cottages or tourist homes or trailers are located and maintained for the accommodation of transients, whether a charge is or is not made.

101. "Trailer" means any structure used for sleeping, living, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirtings, or which is, has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "trailer" includes "camp car" and "house car."

102. "Travel trailer" means any vehicular portable structure built on a chassis designed as a temporary dwelling not exceeding eight feet in width and not exceeding 40 feet in length, exclusive of separate towing unit. The term "travel trailer" includes pickup coach, motor home, camp trailer or other similar mobile and temporary dwellings commonly used for travel, recreation or vacation quarters.

103. "Travel trailer park" means a parcel of land upon which two or more spaces are provided, occupied or intended for occupancy by travel trailers for transient purposes, not to exceed 30 days.

104. "Trash" means cuttings from vegetation, refuse, paper, bottles, rags.

105. "Variance" means a modification of the specific regulations of this chapter granted by resolution of the Board of Adjustment in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

106. "Yard" means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except for landscaping or as otherwise provided in this chapter.

107. "Yard, front" means the yard area lying to the front of the principal building or between the front building line and the front lot line.

108. "Yard, rear" means the yard lying to the rear of the principal building, or between the rear building line and the rear lot line.

109. "Yard, side" means the yard area lying to the sides of the principal building or between the side building lines and the side lot lines.

110. "Zoning Administrator" means the administrative officer designated or appointed by the City to administer and enforce the regulations contained in this chapter.

111. "Zoning certificate" means a written statement issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

**165.04 ADMINISTRATION AND ENFORCEMENT.** The provisions of this chapter shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

**165.05 BUILDING PERMITS.**

1. Required. No person shall erect, move, add to or structurally alter any building or other structure without first obtaining a building permit and authorization to commence construction, issued by the Zoning Administrator.

2. Application. Such permit shall be obtained by filing a written application on forms provided by the City. The application shall be accompanied by a diagram showing the actual dimensions and shape of the lot to be built upon; the location and dimensions of any existing buildings or structures; the location and dimensions of the proposed building, structure or alteration; the existing and proposed use of the building and land; the number of families, housekeeping units, commercial units, or rental units the building is designed to accommodate; conditions and unusual features existing on the lot; and such other matters as may be necessary to determine conformance with and provide for enforcement of this chapter.

3. Issuance. If the application shows compliance with the provisions of this chapter or upon order of the Board of Adjustment, the Zoning Administrator shall issue a building permit. If the application does not show compliance with the provisions of this chapter, the Zoning Administrator shall deny a building permit and indicate the reason or reasons for denial. Fees for building permits shall be established by ordinance. See Section 165.10.

4. Expiration. Building permits issued pursuant to the provisions of this section shall automatically expire at the end of 180 days from the date of the issuance of the building permit. Currently outstanding building permits shall be considered to have been issued as of the effective date of this section. If the construction or alteration set forth on the building permit has not been completed by the end of said 180 days, all further work on the project shall cease and the property owner shall be required to obtain a new building permit before the project is continued. No new building permit shall be issued until the property owner submits a building plan and timetable showing a reasonable completion date.



5. Extensions. The Zoning Administrator is authorized to grant extensions of the building permit without payment of additional fee if the failure to complete the project is due to the unusual enormity of the project or because of acts of God or other physical causes beyond the control of the permittee which prevented the permittee from completing the project despite the diligent efforts of the permittee. The decision of the Zoning Administrator to deny an extension may be appealed by the person seeking the extension to the Council by filing a written notice of the appeal with the Clerk. The notice of appeal shall briefly set forth the reasons why the person believes the extension should be granted. The Council shall hear the appeal within 14 days of the filing of the appeal and shall notify the appellant of the time and place of the hearing in writing at least five days before the hearing. After hearing, the Council may affirm, reverse or modify the decision of the Zoning Administrator.

6. Removal of Construction Upon Expiration. In the event a building permit expires as provided in this section, the owner of the property identified on the building permit shall cause all elements of the uncompleted construction to be removed from the property and the land returned to its original topographical and elevation levels within 15 days of the date of expiration of the building permit or upon final determination of any timely filed appeal pursuant to this section, whichever is later. Prior to the expiration of a building permit as provided herein, a building permittee may make written application to amend such building permit to decrease the scope or scale of the construction project as originally approved. The Zoning Administrator shall approve such amendment if the project as amended otherwise complies with the requirements of this chapter. Upon 15 days' notice by the Mayor given to the owner of the property identified on the building permit, as determined from the records of the Hardin or Franklin County Auditor's office, by personal service or by certified mail addressed to said owner at the owner's last known address or the address of the owner shown on the records of the Hardin County or Franklin County Treasurer's office, the City may proceed to seek enforcement of such removal by municipal infraction proceedings, criminal proceedings or any other remedy provided by law.

7. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation issued thereunder if criminal penalties are also applicable for the violation, nor does this section preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means, including but not limited to alternative reliefs or remedies contemplated by this Code of Ordinances or State law.

**165.06 AUTHORIZATION TO COMMENCE CONSTRUCTION.** Construction of the proposed building, structure or alteration shall not commence until an authorization to commence construction has been issued by the Zoning Administrator. Such authorization shall not be issued until the Zoning Administrator or designee has physically inspected the lot to be built upon, and flags or other markers placed on the lot indicating the actual proposed location of the proposed improvement and has determined that the lot and proposed improvement are consistent with the information contained on the application for building permit.

**165.07 CERTIFICATE OF ZONING COMPLIANCE.** It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, in its use or structure until a certificate of zoning compliance has been issued therefor by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit and shall be issued within 10 days

after the lawful erection or alteration of the building is completed in conformity with the provisions of this chapter. Any person proposing to change the use of any building, structure or land for which no building permit is required shall also obtain a certificate of zoning compliance from the Zoning Administrator stating that the proposed use is in conformance with this chapter. A temporary certificate of zoning compliance may be issued by the Zoning Administrator for a period not exceeding 6 months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. The Zoning Administrator shall maintain a record of all certificates of zoning compliance and copies shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter.

**165.08 CONSTRUCTION, USE COMPLIANCE REQUIRED.** Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

**165.09 PENDING APPLICATIONS FOR BUILDING PERMITS.** Nothing herein contained shall require any change in the overall layout, plans, construction size or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of this chapter, the construction in conformance with such plans shall have been started prior to the effective date of the ordinance codified in this chapter and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

**165.10 FEES.**

1. A fee shall be assessed for the issuance of a building permit. The fees to be assessed shall be as follows:
  - A. Two and one-half cents per square foot of construction area for residences, offices or other finished buildings;
  - B. One cent per square foot of construction area for garages, metal buildings, retail stores, or other open buildings;

Notwithstanding the foregoing fee schedule, a minimum fee shall be \$5.00 and no fee over \$100.00 shall be assessed.

2. A fee of \$5.00 shall be assessed for the issuance of each authorization to commence construction.
3. A fee of \$5.00 shall be assessed for the issuance of each certificate of zoning compliance.

**165.11 ZONING MAP.**

1. Changes and Amendments. The Council may on its own motion or on petition after public notice and hearing as provided by law, and after report by the Commission, amend, supplement or change the boundaries or regulations herein or subsequently established. Any owner or owners of property may present a petition duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least 50%

of the area included in such proposed change and by the owners of 50% of the property within 300 feet therefrom, and the petition shall be filed with the Commission. The Commission shall make a report to the Council within 60 days from the date of receipt of such petition. In case the proposed amendment, supplement or change is disapproved by the Commission, or in case of a protest against any proposed amendment or change signed by the owners of 20% or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. †

2. Map Replacement. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may by ordinance adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the Clerk, under the following words:

*This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. \_\_\_ of the City of Ackley, Iowa.*

3. Zoning of Annexed Areas. Any land annexed to the City after the effective date of the ordinance codified in this chapter shall be zoned R-1 Single Family Residential until the Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with this chapter. The final zoning plan shall be adopted within six months of date of annexation.

**165.12 DISTRICTS DESIGNATED.** In order to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, courts and other open spaces within and surrounding such buildings, the City is divided into eight classes of districts. The use, height and area regulations are uniform to each class of district, and the districts shall be known as:

- R-1 Single Family Residential District
- R-2 Moderate Density Residential District
- R-3 Mobile Home Park Residential District
- C-1 Commercial District
- C-2 Central Business Commercial District
- M-1 Light Industrial District
- M-2 General Industrial District
- A Agricultural District

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† (See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)

**165.13 DISTRICT BOUNDARIES.** The boundaries of these districts are indicated upon the official zoning map of this City, which map is made a part of this chapter by reference. The official zoning map and all notations, references and other matters shown thereon shall be as if the notations, references and other matters set forth by the map were all fully described herein. The official zoning map is filed in the office of the Clerk in the City Hall. The district boundaries are either lot lines or the centerlines of streets and alleys, unless otherwise shown, and where the districts designated are bounded approximately by street, alley or lot lines and are not dimensioned otherwise, the lot lines or the centerlines of streets and alleys shall be construed to be the boundaries of the district.

**165.14 A – AGRICULTURAL DISTRICT.** The regulations set forth in this section and other applicable sections of this chapter apply in the A – Agricultural District.

1. Use Regulations. A building or premises shall be used only for the following purposes.

A. Permitted Uses. The permitted uses for the A District are as follows:

- (1) Agriculture and the usual agriculture buildings and structures.
- (2) Truck gardening and nurseries, provided that no permanent dwelling units shall be erected thereon unless the tract contains 10 or more acres.
- (3) Mining and extracting of minerals or raw material;
- (4) Forest and forestry.
- (5) Noncommercial parks, playgrounds, golf courses (both public and private) and recreational uses.
- (6) Any use erected or maintained by a public agency.
- (7) Public utility structures and equipment necessary for the operation thereof.
- (8) Transmitting stations and towers.
- (9) Dumping of noncombustible materials for land fill purposes.
- (10) Outdoor advertising signs and billboards in accordance with the provisions of Section 165.31, and provided in addition that prior recommendations must be obtained for such signs and/or billboards from the Commission and approval granted by resolution of the Council.
- (11) Borrow pits and quarries for rock, sand and gravel or other soil deposits.
- (12) Establishments or enterprises involving large assemblages of people or automobiles as follows:
  - a. Amusement parks;
  - b. Carnivals, circuses and fairgrounds except as provided in Section 165.32;
  - c. Commercial sport or recreations enterprises, including amphitheater, convention halls and auditoriums;
  - d. Race tracks and rodeo grounds;
- (13) Recreation amusements, refreshment and service buildings in public parks, playgrounds and golf courses.
- (14) Shooting ranges including pistol, rifle, skeet and trap ranges.
- (15) Cemeteries, provided that such area designated as a cemetery as defined in this chapter consists of not less than five acres, measuring all adjacent areas maintained and operated as a single unit.

(16) Automobile body and fender repair shop, provided the following conditions are met:

- a. Said shop shall be not less than 1,500 feet from an “R” District.
- b. Said shop shall be not less than 300 feet from any existing residence.
- c. All automobiles on the premises for repairs and all automobile parts shall be housed in an enclosed building or otherwise screened from public view by the use of hedges, walls or fences.

(17) Motor vehicle display, rent and sales, provided that said motor vehicles meet all requirements of the Iowa Department of Transportation for a regular title and registration and are legally operable on the public highways of the State and provided that such motor vehicles are being displayed, rented or sold by a person having a current dealership license issued by the Iowa Department of Transportation.

B. Accessory Uses. The accessory uses for the A District are as follows:

- (1) Accessory buildings and uses customarily incident to any of the uses in Paragraph A of this subsection.
- (2) Bulletin boards and signs pertaining to the lease, hire or sale of a building or premises, or signs pertaining to any material that is grown or treated within the District; provided however, such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed or stored.

2. Height Regulations. Any building hereafter erected or structurally altered may be erected to any height not in conflict with any other provision of this Code of Ordinances.

3. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed.

<b>A – AGRICULTURAL DISTRICT LOT AREA, FRONTAGE AND YARD REQUIREMENTS</b>	
<b>All Uses:</b>	
Lot area	10 acres
Lot width	200 feet
Front yard depth	50 feet
Side yard least width on any one side	50 feet
Rear yard depths	50 feet
Width minimum sum of both side yards	100 feet

4. Open Space Requirements. For open space requirements, see Section 165.26.

5. Off-street Parking Regulations. For off-street parking regulations, see Section 165.30.
6. Buffers Required. For buffer requirements, see Section 165.23.

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**165.15 R-1 - SINGLE FAMILY RESIDENTIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the R-1 Single Family Residential District:

1. Use Regulations. A building or premises shall be used only for the purposes contained in Subsection 2 and 3 of this section.
2. Permitted Uses. The permitted uses in the R-1 District are as follows:
  - A. A single-family dwelling on each lot or building site.
  - B. Public or private parks, playgrounds, golf courses, and other outdoor recreational facilities which are commonly but not necessarily operated on a nonprofit basis; however, amusement parks, golf driving ranges and golf miniature putting courses, normally operated for profit and involving manufactured or constructed facilities of an unnatural or non-environmental design shall be excluded.
  - C. Agricultural crops, including truck gardening, but not the raising of poultry, pets or livestock for commercial purposes or on a scale that would be objectionable because of noise or odor to surrounding residences.
  - D. Accessory or branch structures and facilities for public utilities and public service uses, including reservoirs and tanks, pumping stations, telephone exchanges and power and transformer stations.
  - E. Churches.
  - F. Educational schools, facilities and institutions, including elementary schools, junior high schools and colleges, both public and privately owned, providing for general education.
  - G. Hospitals.
  - H. Motels, provided that the written consent of all abutting property owners shall be attached to any building or use permit application before the Zoning Administrator shall issue a building permit or certificate of zoning compliance. The written consents of abutting property owners may be qualified by requirements for buffers along the property lines, which qualifications shall be a condition for the issuance of a building permit or certificate of zoning compliance. Pads for self-contained camper units shall be authorized in conjunction with a motel with the same provisions as herein set forth for motels. This paragraph shall not authorize the rental of pads for transient self-contained camper units not in conjunction with a motel.
  - I. Libraries.
  - J. Television satellite receivers and bases, provided that the owner or installer thereof shall first obtain a building permit and provided that said receivers shall meet the minimum height, lot area, frontage and yard requirements of a principal building for the zoning district in which said receivers will be constructed.
3. Accessory Uses. The accessory uses in the R-1 District are as follows:
  - A. Normal accessory buildings and structures for a dwelling such as private garages, swimming pools, children's playhouses (shall not be used for

dwelling purposes), radio and television receiving antennas, antennas, barbecue pits, playground equipment, tennis courts, etc.

B. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.

C. Domestic animals such as cats, dogs, birds, tropical fish, etc., which are normally allowed to run free or are housed within the dwelling. Horses, cows, sheep, chickens, etc., normally considered farm or wild and untamed animals shall be excluded except as otherwise provided for in this chapter.

D. Flower and vegetable gardening for noncommercial gain.

E. Greenhouses and horticultural nurseries for noncommercial gain.

F. Home occupations of a professional, talented or artistic nature such as doctor, engineer, lawyer, real estate or insurance agent, tailor, seamstress, watchmaker, dentist, designer, ceramics; however, those occupations normally classified as a trade and requiring the substantial use of contractors' or mechanics' tools or equipment such as carpenters, electricians, monument cutters, painters, plumbers, etc., shall be excluded.

4. Height Regulations. No principal building shall exceed 35 feet in height. Accessory buildings shall comply with Section 165.25.

5. Lot Area, Frontage, Yard Requirements. The following minimum requirements shall be observed:

<b>R-1 – SINGLE FAMILY RESIDENTIAL DISTRICT LOT AREA, FRONTAGE AND YARD REQUIREMENTS</b>						
<b>Principal Use</b>	<b>Lot Area</b>	<b>Lot Frontage</b>	<b>Front Yard Depths</b>	<b>Yard Least Width on Any Side</b>	<b>Minimum Sum of Both Side Yards</b>	<b>Rear Yard Depths</b>
Dwellings, libraries and motels, with or without camper pads	10,000 square feet	80 feet	30 feet	8 feet	16 feet	30 feet
Non-dwellings	1 acre	150 feet	50 feet	25 feet	50 feet	50 feet

6. Off-street Parking Regulations. For off-street parking regulations, see Section 165.30.

**165.16 R-2 – MODERATE DENSITY RESIDENTIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the R-2 Moderate Density Residential District:

1. Use Regulations. A building or premises shall be used only for the purposes in Subsections 2 and 3 of this section.
2. Permitted Uses. The permitted uses in the R-2 District are as follows:
  - A. Any use permitted in the R-1 District, provided such use shall comply with the minimum requirements of the R-2 District.
  - B. Two-family dwellings.
  - C. Multi-family dwellings; provided, however, individual buildings shall contain no more than six dwelling units and further provided that a minimum of 3,500 square feet of lot area is provided for each dwelling unit and its customary accessory buildings.
  - D. Day nursery schools and childcare centers, provided no building, structure or accessory use for property so used is located less than 30 feet from any other principal building on any other lot in an “R” District and provided there is established and well maintained in connection therewith a completely fenced play-lot of not less than 1,000 square feet in area for the first 20 or less children under care, with 25 square feet added to such play-lot area for each additional designated child capacity of the principal building.
  - E. Boarding and lodging houses.
  - F. Medical, dental and other health care facilities designed for out-patient and emergency care of patients;
  - G. Greenhouses for commercial gain, provided all of the following conditions are met:
    - (1) The greenhouse is attached or joined to the residence of the operator of the greenhouse.
    - (2) No more than one-quarter of one floor level of the residence of the operator is used in conjunction with, or as part of, such commercial enterprise.
    - (3) No sign other than one nameplate affixed to the outer wall, of not more than one square foot in area, is used to indicate from the exterior that the greenhouse is a commercial enterprise.
    - (4) Not more than one person other than an occupant of the residence of the operator is employed.
    - (5) Off-street parking is provided to meet the requirements of Paragraphs 165.30(2)(F) and (M) of this chapter. As applied to greenhouse for commercial gain in an R-2 or R-3 District, the term “employee” in Paragraph (M)(2) of Subsection 165.30(2) shall not include an employee who is an occupant in the operator’s residence. The square footage of floor space under Subsection 165.30(2)(M), as applied to commercial greenhouses in an R-2 or R-3 District, shall be determined by adding together the area of the greenhouse and the area

of that part of the residence used in conjunction with, or as part of, such commercial enterprise.

H. Cemeteries, provided that such area designated as a cemetery as defined in this chapter consists of no less than five (5) acres, measuring all adjacent areas maintained and operated as a single unit.

3. Accessory Uses. The accessory uses for the R-2 District are as follows:
  - A. Any use permitted in the R-1 District provided such use shall comply with the minimum requirements of the R-2 District.
  - B. Playground areas and equipment accessory to multi-family dwellings.
  - C. Multi-family entertainment and service centers, provided such areas shall not be located to the front of the principal building at ground level or above and such areas shall be screened from public view.
  - D. Storage garage accessory to the principal building.
4. Height Regulations. No principal building shall exceed 35 feet in height.
5. Accessory Buildings. For accessory building requirements, see Section 165.25.
6. Lot Area, Frontage, Yard Requirements.

<b>R-2 – MODERATE DENSITY RESIDENTIAL DISTRICT LOT AREA, FRONTAGE AND YARD REQUIREMENTS</b>						
<b>Principal Use</b>	<b>Lot Area</b>	<b>Lot Frontage</b>	<b>Front Yard Depths</b>	<b>Yard Least Width on Any Side</b>	<b>Minimum Sum of Both Side Yards</b>	<b>Rear Yard Depths</b>
Single and two-family dwellings, day nurseries, medical and dental care facilities and permitted commercial greenhouses	8,400 square feet	60 feet	25 feet	6 feet	12 feet	35 feet
Multi-family dwellings	12,600 square feet	90 feet	35 feet	10 feet	20 feet	35 feet
Non-dwellings	1 acre	150 feet	50 feet	25 feet	50 feet	50 feet

7. Building Floor Area to Lot Area Ratio Requirements. The building floor area ratio shall not exceed the following:

**Height of Building**

**Total Floor Area to Lot Area Ratio**

1 story.....	0.30
2 stories .....	0.50
2½ stories .....	0.60

- 8. Open Space Requirements. For open space requirements, see Section 165.26.
- 9. Off-street Parking Regulations. For off-street parking regulations, see Section 165.30.

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**165.17 R-3 – MOBILE HOME PARK RESIDENTIAL DISTRICT.** The regulations set forth in this section or elsewhere in this chapter which are applicable shall apply in the R-3 Mobile Home Park District.

1. Permitted Uses. The permitted uses for the R-3 District are as follows:
  - A. Mobile home parks, in accordance with regulations of the State and minimum requirements contained herein, but not including mobile home sales and display areas. No part of any park shall be used for nonresidential purposes except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. This shall in no way prohibit the sale by a resident owner of a mobile home located on a mobile home stand and connected to the pertinent utilities.
  - B. Any use permitted in the R-2 district provided such use complies with the minimum requirements of the R-3 District.
  - C. The construction of mobile home units on permanent foundations, provided such use complies with the minimum requirements of the R-3 District.
2. Accessory Uses.
  - A. Accessory uses may include common facility service buildings which provide laundry facilities, short order food service, accessory supplies, vending machines, etc.; also park management buildings, maintenance buildings, community buildings, and other uses of a similar nature. All such buildings shall be located within the central park area, and shall be restricted to the use of the park occupants.
  - B. One permanent identification sign shall be permitted at any main entrance to a mobile home park. Such sign shall be of ornamental metal, stone, masonry, or other permanent material and shall indicate only the name of such mobile home park. Such sign shall not exceed 20 square feet in surface area.
3. Height Regulations. No mobile home or accessory building shall exceed 20 feet in height.
4. Lot Area, Lot Frontage and Yard Requirements.
  - A. The minimum area proposed for a mobile home park shall have at least five acres of gross development area. The maximum density allowed for the gross development area shall be eight mobile home units per gross acre.
  - B. All mobile home park perimeter yard requirements shall be not less than 35 feet.
  - C. No part of any mobile home space shall be closer to any public street upon which the park adjoins than 50 feet; however, interior park streets may be located within the setback area.
  - D. The individual mobile home lot shall contain not less than 4,500 square feet in area with a minimum depth of 90 feet. Each lot shall have a front yard not less than 15 feet in depth measured from the edge of the surfaced private street to the closest point of the lower face of the mobile home. Side and rear yards shall be provided and maintained so as to provide a minimum separation at the nearest point between mobile homes, and other buildings and structures on adjoining lots, of at least 25 feet; however, this may be reduced to 15 feet

between a mobile home and a garage or other accessory structure, provided the garage or accessory structure has a fire wall.

E. A minimum of 250 square feet for each lot shall be provided for one or more recreational areas which shall be easily accessible to all park residents. The required recreational area shall be computed in addition to the minimum lot area specified herein.

5. Off-street Parking. A minimum of two off-street car spaces for each mobile home lot shall be provided. These required parking spaces or parking areas shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve. All parking areas shall be constructed with a concrete or asphaltic concrete surface.

6. Street Requirements. The entrance road connecting the park streets with a public street shall have a minimum road pavement width of 31 feet, measured back to back of curbs. All interior streets shall be not less than 25 feet in width, measured back to back of curbs. All streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete with an approved curb to provide for drainage.

7. Skirting Regulations. Skirtings of a permanent type material and construction shall be installed within 90 days to enclose the open space between the bottom of a mobile home floor and the grade level of the mobile home stand. This skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park.

8. Utilities. Sewer and water facilities shall be provided for each mobile home park space in accordance with the requirements of the Iowa State Department of Health. Any lagoons or other treatment facility constructed in conjunction with the development shall be located not less than 75 feet from any public road or street or lot line. (In the case of a lagoon, this distance shall be measured from the outside toe of the levee slope.)



**165.18 C-1 - COMMERCIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the C-1 Commercial District.

1. Use Regulations. A building or premises shall be used only for the purposes in Subsections 2 and 3 of this section.
2. Permitted Uses. The permitted uses in the C-1 District are as follows:
  - A. Any use permitted in an R-2 District.
  - B. Retail business or service establishments such as the following:
    - Animal hospital, veterinary clinic or kennel, provided any exercising runway or pasture is at least 200 feet from an "R" District.
    - Antique shops.
    - Apparel shops, infant, teenage and adult.
    - Art goods and bric-a-brac shops.
    - Artist shops and studios.
    - Automobile, trailer and farm implement establishment for display, hire, sales and minor repairs, including sales lots but not including body and fender work.
    - Bakery whose products are sold only at retail and only on the premises.
    - Ballrooms and dance halls.
    - Banks, including drive-in teller services.
    - Barber shop or beauty salon.
    - Bath and massage parlors.
    - Bicycle sales.
    - Billiard parlors and pool halls.
    - Body and fender work, provided that it is on the premises of a licensed automobile dealership.
    - Bookstore.
    - Bowling alleys.
    - Business, commercial, dancing or music schools.
    - Candy shops, retail sales only.
    - Cigar and cigarette stores.
    - Clothes cleaning and laundry pickup stations.
    - Cocktail lounge or tavern.
    - Collection office of public utility.
    - Confectionery and ice cream stores.
    - Curio stores.
    - Dairy stores.
    - Dance and/or music studio.
    - Drive-in eating and drinking establishments, summer gardens and road houses, including entertainment and dancing, provided the principal building is distant at least 200 feet from any "R" District.
    - Drug store.

Florist shop, retail sales only.  
 Furniture store.  
 Garden shops.  
 Gasoline service station.  
 General hardware stores, including display plumbing and electrical fixtures, but not in connection with a plumbing or electrical shop.  
 Gift shop.  
 Grocery, delicatessen or meat market, except those dealing in live poultry.  
 Haberdashery.  
 Hobby shop.  
 Hotels.  
 Household appliance stores and hardware stores.  
 Ice cream parlor.  
 Ice storage and distributing station of not more than five (5) ton capacity.  
 Jewelry store.  
 Landscape garden plant stores.  
 Launderette.  
 Leather goods store.  
 Locker plants for storage and retail only.  
 Lumberyards, retail, but not including any mill work, manufacturing, fabricating or wholesale operations.  
 Mail order offices; display room.  
 Messenger offices.  
 Millinery shop.  
 Motels and auto courts.  
 Music store and record shop.  
 Newsstands.  
 Night clubs.  
 Notions.  
 Paint and wallpaper store.  
 Pet shop.  
 Photographic store and/or studio.  
 Post office substation.  
 Printing.  
 Radio and television - sales and repair.  
 Radio and television broadcasting stations, studios and offices, but not towers in excess of 100 feet.  
 Restaurants.  
 Shoe and shoe repair shops.  
 Sign painting shops.  
 Soda fountain and café, provided no alcoholic beverages are served or sold.  
 Soft drink stands.  
 Souvenir stores and variety stores.

C. Any use which is found by the Zoning Administrator to be a use similar to one of the above named uses and in the opinion of the Zoning Administrator conforms to the intent of this section.

- D. Outdoor advertising signs and billboards in accordance with provisions of Section 165.31.
- E. Buildings and uses owned by a county, city and county, city or other political subdivision which are operated for the social benefit or convenience of the public.
- F. Clubs, lodge and fraternal buildings which are operated by non-profit benevolent organizations for the social benefit or convenience of the public.
- G. Schools which specialize in limited short business, commercial and industrial training courses and are operated for commercial gain.
- H. Museums and libraries not operated for profit.
- I. Travel trailer parks, provided the following additional minimum requirements are met:
- (1) Front yard, same as R-3 District, or 50 feet, whichever is greater. This requirement applies to any and all roads or streets upon which the trailer park abuts.
  - (2) Side yard, 35 feet.
  - (3) Rear yard, 35 feet.
  - (4) Minimum area, one and one-half acres.
  - (5) Maximum density, 20 unit spaces per gross acre of park site.
  - (6) Drives, 25 feet in width with asphaltic concrete surface.
  - (7) A common service building providing laundry facilities, short order food service, accessory supplies, etc., may be included in the parks, provided such buildings shall be located within the central park area, shall not be visible to passing traffic and shall be restricted to the use of the park occupants. Such service buildings shall be permitted in the C-2 District provided such use conforms to the requirements of the C-1 District regulations.
  - (8) The rear and/or side yards shall be screened from adjacent property access by a planting screen not less than ten feet in width or by an un-climbable fence wall.
  - (9) Minimum space size, 20 feet by 55 feet.
  - (10) Minimum space area, 1,100 square feet.
  - (11) Off-drive parking, one parking space for and within the area of each trailer space.
  - (12) Minimum front yard for trailer space, 10 feet.
  - (13) Minimum rear yard for trailer space, five feet.
  - (14) The minimum distance between any two trailers shall be not less than 10 feet.
3. Accessory Uses. The accessory uses for the C-1 District are as follows: any accessory use permitted in the R-2 District, provided such use complies with the minimum requirements for the C-1 District.

4. Height Regulations. No principal building shall exceed 35 feet in height.
5. Accessory Buildings. For accessory building requirements, see Section 165.25.
6. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

<b>C-1 – COMMERCIAL DISTRICT LOT AREA, FRONTAGE AND YARD REQUIREMENTS</b>						
<b>Principal Use</b>	<b>Lot Area</b>	<b>Lot Frontage</b>	<b>Front Yard Depths</b>	<b>Yard Least Width on Any Side*</b>	<b>Minimum Sum of Both Side Yards*</b>	<b>Rear Yard Depths</b>
All uses	10,000 square feet	80 feet	45 feet	15 feet	30 feet	25 feet
*All yards abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.						

7. Open Space Requirements. For open space requirements, see Section 165.26.
8. Off-street Parking Regulations. For off-street parking regulations, see Section 165.30.
9. Buffers Required. For buffer requirements, see Section 165.23.

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**165.19 C-2 – CENTRAL BUSINESS COMMERCIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the C-2 Central Business Commercial District.

1. Permitted Uses. The permitted uses in the C-2 District are as follows:
  - A. Any use permitted in the C-1 District, provided such use shall comply with the minimum requirements of the C-2 District, except that the ground or first floor of any building situated on real estate abutting Main Street or Park Avenue shall not be used for residential purposes unless said residence is occupied by the owner or operator of a business conducted in not less than the 25% of the total area of such ground or first floor which faces Main Street or Park Avenue.
  - B. Manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises.
  - C. Printing or publishing houses.
  - D. Equipment, storage yards and garages for public utilities and public services.
2. Accessory Uses. The accessory uses for the C-2 District are as follows:
  - A. Accessory uses permitted in the C-1 District.
  - B. Any exterior or roof sign the height of which shall not exceed 40% of the building height above the roof line, but not to exceed 50 feet above the roof line in any case. For buildings less than 40 feet in height, the maximum height above the roof line for any exterior or roof sign shall be 16 feet.
3. Height Regulations. No building shall exceed 45 feet in height.
4. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

<b>C-2 – CENTRAL BUSINESS COMMERCIAL DISTRICT LOT AREA, FRONTAGE AND YARD REQUIREMENTS</b>						
<b>Principal Use</b>	<b>Lot Area</b>	<b>Lot Frontage</b>	<b>Front Yard Depths</b>	<b>Yard Least Width on Any Side*</b>	<b>Minimum Sum of Both Side Yards*</b>	<b>Rear Yard Depths</b>
All uses	None required unless the proposed right-of-way of a thoroughfare shown on official major street plan in which case the building setback line shall be the proposed right-of-way line.			None, except adjacent to an “R” District, in which case not less than 10 feet		None except abutting an “R” District, in which case 25 feet

5. Open Space Requirements. For open space requirements, see Section 165.26.
6. Off-street Parking Regulations. For off-street parking regulations, see Section 165.30.
7. Buffers Required. For buffer requirements, see Section 165.23.



**165.20 C-3 - LIGHT COMMERCIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the C-3 Light Commercial District.

1. Use Regulations. A building or premises shall be used only for the purposes in Subsections 2, 3 and 4 of this section.
2. Permitted Uses. The permitted uses in the C-3 District are as follows:
  - A. Any use permitted in an R-2 District.
  - B. Retail business or service establishments which will not detract from the residential nature of the neighborhood and will not substantially discourage use of other properties in the immediate vicinity for residential purposes because of noise, smell, smoke or other air pollution, clutter, or excessive congestion. Examples of the types of usage permitted are as follows:
    - Antique shops.
    - Art goods and bric-a-brac shops.
    - Artist shops and studios.
    - Barber shop or beauty salon.
    - Bicycle sales.
    - Bookstore.
    - Collection office of public utility.
    - Curio stores.
    - Florist shop, retail sales only.
    - Gift shop.
    - Hobby shop.
    - Jewelry store.
    - Leather goods shop.
    - Mail order offices; display room.
    - Notions.
    - Paint and wallpaper store.
    - Photographic store and/or studio.
    - Printing.
    - Radio and television.
    - Souvenir stores.
  - C. Any use which is found by the Zoning Administrator to be a use similar to one of the above named uses and in the opinion of the Zoning Administrator conforms to the intent of this section.
  - D. Buildings and uses owned by a county, city and county, city or other political subdivision which are operated for the social benefit or convenience of the public.
3. Restrictions. All commercial uses in the C-3 District which are permitted under R-1 and R-2 shall comply with all requirements of Section 165.16 of this chapter. All commercial uses in C-3 not permitted in R-1 or R-2 shall, in addition to the requirements set forth in Subsections 5 through 8 of this section, comply with the following requirements:
  - A. No commercial establishment shall open before 7:00 a.m. or remain open after 9:00 p.m.

- B. No equipment, inventory, supplies or any other item used in the business shall be stored, displayed or demonstrated outside of a building or other structure situated on the property.
  - C. No sign or other advertising shall be maintained which emits any light or sound, including spot-lights or flood-lights. In addition, such sign or other business identification shall not exceed six square feet of surface area, measuring all exposed sides, and shall not extend above five feet from the ground unless attached to the principal structure situated on the property.
  - D. At least 30% of the total lot area shall be devoted to lawns, shrubbery, trees and other decorative plantings.
4. Accessory Uses. The accessory uses for the C-3 District are the same as permitted under Section 165.16(3).
- 1. 5. Height Regulations. No principal building shall exceed 35 feet in height.
  - 2. 6. Accessory Buildings. For accessory building requirements, see Section 165.25.
  - 3. 7. Lot Area, Lot Frontage and Yard Requirements. Lot area, frontage and yard requirements for commercial uses permitted by subsection 2 of this section shall be the same as provided for single and two-family dwellings as set forth in Section 165.16(6) of this chapter.
  - 8. Building Floor Area to Lot Area Ratio Requirements. The building floor area to lot area ratio requirements for the C-3 District shall be the same as provided in Section 165.16(7) of this chapter.

**165.21 M-1 - LIGHT INDUSTRIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the M-1 Light Industrial District.

1. Use Regulations. A building or premises shall be used only for the purposes in Subsections 2 and 3 of this section.

2. Permitted Uses. The permitted uses in the M-1 District are as follows:

A. Any business or service establishment permitted in a “C” District which is incidental to an industrial or manufacturing use.

B. Industrial, manufacturing, major repair, processing, storage and wholesale establishments and service such as the following:

Automobile body and fender repair shop, automobile repair garage, automobile construction, assembly or factories specializing in the rework or rebuilding of automobile components, provided no automobiles or parts of automobiles are visible from abutting properties or from a public street except such vehicles which are repairable, titled, with either a regular or salvage title and consist of all the component parts of the automobile. “Repairable” means that the cost of repairs necessary to permit the vehicle to be lawfully used on a public highway would not exceed the value of the vehicle upon completion of the repairs. No visible automobiles shall be stacked or parked less than two feet from another vehicle. All vehicles or parts of vehicles not permitted by this paragraph to be visible from abutting properties shall be stored in an enclosed building or behind a fence, wall or plantings of evergreen varieties.

Bag, carpet and rug cleaning.

Bakeries.

Carpenter and cabinet shops.

Concrete mixing, concrete products manufacture.

Contractor’s equipment and materials storage yard.

Creamery, bottling works, dairy ice cream manufacturing, ice manufacturing and cold storage plant.

Enameling, lacquering or japanning.

Flammable liquids, underground storage only, not to exceed 25,000 gallons and located not less than 200 feet from any “R” District.

Foundry casting lightweight nonferrous metals or electric foundry not causing noxious fumes or odors.

Laboratories, experimental, film or testing.

Laundries.

Lumber and building supply yards.

Machine shop.

Milk distributing station.

Motor freight terminal.

Plumbing, heating and air-conditioning shops.

Sales pavilions and sale barns.

Sawmill, planing mill, including manufacture of wood products.

Sheet metal shops.

C. Any residential use is prohibited, except for caretaker’s quarters incidental to a permitted industrial use. However, this paragraph does not prevent the reconstruction or rebuilding of an existing residential structure

destroyed or damaged due to wind, fire, hail, snow or other act of God or due to vandalism, riot, war or other cause beyond the control of or without the consent of or knowledge of the owner or owners of said structure.

D. Outdoor advertising signs and billboards in accordance with provisions of Section 165.31.

3. Accessory Uses. The accessory uses for the M-1 District are as follows: any accessory use customarily accessory and incidental to a permitted principal use.

4. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, offensive or pollute the air or water due to emission of cinders, dust, gas fumes, noise, odor, smoke, refuse matter or water-carried waste.

5. Height Regulations. No building shall exceed 45 feet in height.

6. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

<b>M-1 – LIGHT INDUSTRIAL DISTRICT LOT AREA, FRONTAGE AND YARD REQUIREMENTS</b>					
<b>Use</b>	<b>Lot Area</b>	<b>Lot Width</b>	<b>Front Yard Depth*</b>	<b>Side Yard* Each Side</b>	<b>Rear Yard Depth</b>
All uses	10,000 square feet	75 feet	45 feet	10 feet**	45 feet**
<p>*All yards in the M-1 District abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.                      ** M-1 District adjacent to any “R” District, the minimum setback shall be 50 feet from the M-1 District boundary line, except in such cases where the district line is construed to follow the centerline of a public thoroughfare, wherein such cases shall be determined by the provisions for the required minimum front yard depth.</p>					

7. Open Space Requirements. For open space requirements, see Section 165.26.
8. Off-street Parking Regulations. For off-street parking regulations, see Section 165.30.
9. Buffers Required. For buffer requirements, see Section 165.23.

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**165.22 M-2 - GENERAL INDUSTRIAL DISTRICT.** The regulations set forth in this section or as applicable elsewhere in this chapter apply in the M-2 General Industrial District.

1. Use Regulations. A building or premises may be used for any purpose whatsoever, subject to the requirements and conditions contained in this section.

A. No occupancy permit shall be issued for any use in conflict with any ordinance of the City or law of the State regulating nuisances.

B. No occupancy permit shall be issued for any dwelling, school, hospital, clinic or other institution for human care, except where incidental to a permitted principal use.

C. No occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been authorized by the Board of Adjustment after reports by the Commission, City Engineer, Fire Chief and Health Department:

Abattoirs and slaughterhouses or stockyards.

Acid manufacture or wholesale storage of acids.

Cement, lime, gypsum or plaster of Paris manufacture.

Chemical manufacturing.

Distillation of bones.

Explosive manufacture or storage.

Fat rendering.

Fertilizer manufacture.

Garbage, offal or dead animals reduction or dumping, provided that all refuse is earth covered daily.

Gas manufacture and cylinder recharging.

Glue, size or gelatin manufacture.

Junkyards where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence, not less than six feet in height, completely obscuring the activity from sight from surrounding lots.

Mining operations.

Refining or wholesale storage of petroleum or its products.

Rock crushing plants or the processing of materials from borrow pits and quarries.

Rubber goods manufacture.

Sand or gravel pits, provided they are enclosed by a fence which provides an effective barrier against trespassing.

Smelting of tin, copper, zinc or iron ores.

Transmitting stations.

Wholesale storage of gasoline.

2. Required Conditions.

A. The best practical means known for the disposal of refuse matter or water carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.

B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities shall be located at least 200 feet from any "R" District and not less than one 100 feet from any other district except an M-1 District.

3. Height Regulations. No structure shall exceed in height the distance measured to the centerline of the nearest street from any portion of the proposed building or structure, except as modified by Subsection 165.33(1).



**165.23 BUFFERS.** It is recognized that the transition from one district to another district of contrasting and conflicting uses is across a barrier and line in theory and not existence. Therefore, it is the intent of this section to require the actual provision of a physical barrier so as to reduce any possible harmful or detrimental influence one district use may or may not have to an abutting and contrasting or conflicting district use.

1. Conditions for Requiring a Buffer. The following conditions shall require a buffer between abutting districts:

A. All "M" Districts which abut any "R" District shall be buffered as required in this section.

B. Any lot in any district having both its front and rear lines abutting a public thoroughfare (a double frontage lot) shall be buffered from the thoroughfare abutting its rear line by one of the buffer methods set forth in this section.

C. Any storage or loading yard in any "C" or "M" District which abuts a public thoroughfare shall be restricted from public view by a buffer.

2. Permissive Buffers. Buffers required under the provisions of this section or elsewhere in this chapter shall be accomplished by either a buffer wall, buffer park or approved combination thereof.

A. A buffer wall shall be not less than six feet in height, constructed of a permanent low maintenance material such as concrete block, cinder block, brick, concrete, pre-cast concrete, tile block, etc. The wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; the use of weather resistant wood, metal or manufactured substitutes may be used as an accessory material for aesthetic quality.

B. A buffer park shall be not less than 60 feet in width, designed and landscaped by a qualified architect, engineer or landscape architect. Predominant planting shall be of evergreen type trees, shrubs and plants so as to assure a year-round effectiveness; density and height of planting shall be adequate to serve as a solid and unpenetrable screen.

3. Burden of Provision of a Buffer. The burden of provision and selection of the buffer shall be as follows:

A. Where two different districts requiring a buffer between them are both in an existing improved condition, the above requirement is not retroactive and should a buffer be desired, it shall be by mutual agreement between property owners or as otherwise provided by law. However, in the event that any or all of the improved property is abandoned, destroyed, demolished, etc., for the purpose of renewal, redevelopment, etc., that portion of such property being renewed, redeveloped, etc., shall be considered vacant land subject to the requirements herein.

B. Where one of two different districts requiring a buffer between them is partially developed, the developer of the vacant land shall assume the burden.

C. Where both districts requiring a buffer between them are vacant or undeveloped except for agricultural use, the burden shall be assumed by the developer as the land is improved or developed.

4. Waiver of Buffer Requirement. Where the line between two districts requiring a buffer, follows a street right-of-way, railroad, stream or other similar barrier, the requirement for a buffer may be waived, providing such waiver does not permit the exposure of undesirable characteristics of land use to public view.

**165.24 SITE PLANS.** Site plans which are required for review and approval for any use in any district or elsewhere by this chapter shall comply with and illustrate the following criteria:

1. Drawn to Scale; Submittal. All site plans shall be drawn at a scale not less than 1" = 100' and 12 copies of the site plan shall be submitted with the zoning permit application.
2. Preliminary Site Plan. A preliminary site plan clearly illustrating the general methods, spatial distribution, location, etc., to be used for compliance with the requirements of this chapter may be submitted for preliminary land use approval, provided, however, that the final site plan required by this section shall be submitted, reviewed and approved prior to the issuance of a building or construction permit.
3. Final Site Plan. The final site plan required shall include the following legal information:
  - A. Legal property owner's name and description of property.
  - B. Appellant's name, requested land use and zoning.
  - C. If the appellant is other than the legal owner, the appellant's interest shall be indicated and the legal owner's authority to appeal shall be certified legal form.
4. Information Required. The final site plan shall clearly illustrate and enumerate the following information:
  - A. Property boundary lines, dimensions and total area;
  - B. Contour lines at intervals of not more than five feet.
  - C. City Datum. If substantial topographic change is proposed, the existing topography shall be illustrated on a separate map and the proposed finished topography shown on the final site plan.
  - D. The availability and location of existing utilities.
  - E. The proposed location, size, shape and type of all buildings or structures.
  - F. The total square feet of building floor area, both individually and collectively.
  - G. The number of dwelling units, bedrooms, offices, etc., as required to determine spatial compliance.
  - H. A vicinity sketch showing detailed adjacent existing land uses within 500 feet of the property, and general existing land uses within 1,000 feet of the property.
  - I. Existing buildings, rights-of-way, street improvements, overhead utilities, easements, drainage courses, etc.
  - J. Parking areas, number of parking spaces proposed, number of parking spaces required by this chapter, type of surfacing to be used, etc.
  - K. Walkways, driveways, outside lighting, walls, fences, signs, monuments, statues and other manmade features to be used in the landscape.
  - L. Location and type of all plants, grass and trees to be used in the landscape. Landscaping to be used for screening purposes shall be illustrated

in elevation and perspective as well as plan, with the approximate size and exact name of plants, shrubs or trees to be planted clearly indicated.

M. Walls, fences or other artificial screens to be used as buffers shall be shown in elevation and perspective as well as plan with proposed height and structural material to be used indicated.

N. Traffic considerations, architectural themes, pedestrian movement, etc., and all other considerations pertinent to the proposed use may be requested for illustration or statistical purposes.

**165.25 ACCESSORY BUILDINGS, GARAGES, AND CONTAINERS.**

1. Height Restriction. No accessory building or structure which exceeds six feet in height shall be erected in a required yard or court, except as provided herein.
2. Regulations Applicable. An accessory building or structure which is located entirely within the principal building area of the lot (the lot minus the required yards and courts) whether attached or detached to the principal building shall be subject to the regulations applicable to the principal building.
3. Connection to Principal Building. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building or may be connected thereto by a breezeway or similar structure, provided the building complies with all yard requirements for a principal building.
4. Garage Requirements. The garage for any principal building on a lot abutting an alley may be located in a rear or side yard area which abuts the alley; provided, however, such garage building shall comply with the following requirements:
  - A. The garage shall be set back no less than two feet from the lot line abutting the alley which the garage entrance faces, or shall be located no closer than 30 feet to any garage or principal building which is located on the opposite side of the alley, whichever is the greater requirement.
  - B. The garage building shall be considered an extension of the principal building and shall comply with all minimum yard requirements for the principal building other than the exception herein permitting the garage entrance to be located near the alley; i.e., a garage facing an alley which abuts a side lot line shall not encroach into the required front or rear yards; a garage facing an alley which abuts a rear lot line shall be set back from the side lot lines no less than the requirements for the principal building.
  - C. The garage building shall not exceed one story or 15 feet in height.
5. Underground Structures. An accessory structure which is adaptable to underground construction (such as a bomb or tornado shelter, garage, wine cellar, etc.) may be constructed beneath the ground surface of any yard area, provided the structure complies with the following requirements:
  - A. No portion of the structure shall be located less than two feet, measured horizontally, from any lot line from which a minimum surface yard area is required.
  - B. The surface area covering the structure shall be finished in a manner natural to the landscape so as to entirely conceal the underground structure.
  - C. No portion of the grade of the finished surface area above the structure may exceed a two-foot height increase above the normal finished grade of any required yard.
  - D. Ingress-egress to the underground structure shall be located in any required yard area.
6. Yard Area; Occupancy. Accessory buildings and structures regardless of height which are constructed above the normal ground surface in any required yard area shall not occupy more than 30% of the yard area in which it is located; however, this regulation shall not be interpreted to prohibit the construction of a two-car garage not to exceed 550 square feet gross building area.

7. Accessory Containers. A storage container or shipping container or other temporary moveable container may be placed in a C-1 Commercial District, C-2 Central Business Commercial District, C-3 Light Commercial District, M-1 Light Industrial District and/or M-2 General Industrial District provided such accessory container is not visible from the front of said property and, if the property is located on a corner lot, from the side of the subject property which abuts a public street.

A. Use of Accessory Container During Building. The use of an accessory container (as defined above) shall be permitted in R-1 Single Family Residential District, R-2 Moderate Density Residential District, and R-3 Mobile Home Park Residential District only during construction for the duration of a building permit.

**165.26 OPEN SPACE REQUIREMENTS.** It is recognized that the extensive use and excessive congestion of land induces the natural elements to become hazardous to the general health and welfare of the community. Therefore, the intent of this section is to require open space which is necessary to preserve the basic qualities and beauty of nature.

1. Compliance Required Generally. All buildings and land use in any “R” District shall comply with the following:

A. On each lot there shall be provided an open space equal to at least 25% of the total lot area; the space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two twenty-foot lanes which are separated by open space.

B. Each individual and unattached principal structure of an apartment or office complex shall be separated from any other principal structure in the complex by an open space of not less than sixteen feet in width.

C. Where doors and windows in the exterior walls of a living unit face a wall of the same building and/or a wall of another building in the same complex site, there shall be provided a minimum open space of not less than thirty feet, the distance to be measured on a line projected at right angles at the opening from the wall containing the opening to the opposite wall.

D. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

2. Exceptions. All buildings and land use in any “C” or “M” District shall comply with the following except as herein provided:

A. Any “R” District use in any “C” District shall comply with subsection 2 of this section.

B. Any commercial use in the C-2 District shall be exempt from this section.

C. On each lot there shall be provided an open space equal to at least 20% of the total lot area; the space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two twenty-foot lanes which are separated by open space.

D. Each individual and unattached principal structure of an apartment or office complex shall be separated from any other principal structure in the complex by an open space of not less than sixteen feet in width.

E. Where doors and windows in the exterior walls of a living unit face a wall of the same building and/or a wall of another building in the same complex site, there shall be provided a minimum open space of not less than thirty feet,

the distance to be measured on a line projected at right angles at the opening, from the wall containing the opening to the opposite wall.

F. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.



**165.27 FENCES, WALLS AND VISION CLEARANCE.**

1. Vision Clearance Required. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half feet and 10 feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines on a corner lot and a straight line adjoining points on said right-of-way lines 25 feet from the point of intersection of the right-of-way lines. This regulation does not apply to the C-2 District.

2. Height of Fences and Walls. In any district, fences and walls not exceeding six feet in height are permitted within the limits of side and rear yards. A fence or wall not exceeding four feet in height is permitted within the limits of front yards. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.

A. Grade for determining the maximum height above grade for fences and walls:

(1) For a fence or wall along a street right-of-way, grade shall be the highest point of the pavement lying between the intersection of the centerline and a projection of the side lot lines.

(2) For a fence or wall between the front lot line and the front building line, grade shall be prorated between the grade at the front lot line and the grades at the building.

(3) For a fence or wall along the rear lot line or between the front building line and the rear lot line, grade shall be the grade at the building.

B. Fences and walls on a corner lot shall comply with the vision clearance requirements of Subsection 1 of this section.

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**165.28 LOTS.**

1. Street Frontage Required. Lots containing any building used in whole or in part for residence purposes shall abut for at least 40 feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be not more than one single family dwelling for such frontage or easement except that a common easement of access at least 50 feet wide shall be provided for two or more such single family or for one or more two family or multiple dwellings.
2. Corner Lots. For corner lots, platted after the effective date of this chapter, the street side yard shall be equal in width to the minimum required side yard for the district in which it is located, plus 20 feet; i.e., for a minimum required side yard of 10 feet, the street side yard shall be not less than 30 feet; provided, however, this regulation shall not be interpreted as to require a side yard of greater width than the minimum required front yard width. For corner lots platted after the effective date of this chapter, the minimum required lot width shall be increased by an amount not less than 20 feet so as to allow for the additional required street side yard, i.e., for a minimum required lot width of 60 feet, the minimum width of a corner lot shall be not less than 80 feet. On corner lots platted and of record at the time of the effective date of this chapter, the same regulations shall apply except that this regulation shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by existing contract of purchase at the time of such effective date, to less than 28 feet nor to prohibit the erection of an accessory building. On any corner lot, the depth of a front yard or side street yard abutting a major street shall be measured from the proposed right-of-way lines shown on the official major street plan.

**165.29 YARDS.**

1. Front Yard. In any residence district, there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, where lots comprising 30% or more of the frontage within 200 feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard requirement shall be the average of these building setbacks and the minimum front yard required for the undeveloped lots. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. The required front yard as computed herein need not exceed 50 feet and shall be not less than 20 feet in any case. The front yard depth of any lot abutting a major street shall be measured from the proposed right-of-way lines shown on the official major street plan.
2. Required Yard Cannot Be Reduced. No lot shall be reduced in size so as to make the width or total area of the lot, or any yard, or any other open space, less than the minimum required by this chapter. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space required under this chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this chapter.
3. Building Lines On Approved Plats. Whenever the plat of a land subdivision approved by the Commission and on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in

place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

**165.30 OFF-STREET PARKING AND LOADING AREAS.** It is the intent of this section to prevent traffic congestion and to provide for proper traffic safety by preserving the public thoroughfares for the unimpaired movement of pedestrian and vehicular traffic. Therefore, it is recognized that the requirements of this section are minimum and that in certain uses of land, these requirements may be inadequate. Where review of the site plans and intended land use indicate through the application of proven standards or experienced statistics that the requirements herein are inadequate for the specific land use adaptation, a greater requirement for off-street parking space is justified and may be required to preserve the intent of this section.

1. Off-street Loading Space Required. With the erection of every building or part thereof hereafter having a gross floor area of 10,000 square feet or more which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space plus one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of 10,000 square feet.
  - A. Each loading space shall be not less than 10 feet in width and 40 feet in length.
  - B. Such space may occupy all or any part of any required yard or court space except required open space under Section 165.26 and required planting screens under Chapter 165.23.
2. Off-street Parking Area Required. In all districts except the C-2 Central Business Commercial District every industrial, commercial, business, trade, institutional, recreational, or dwelling use and similar use shall have space provided for parking and storage of vehicles in accordance with the following schedule; however, no parking area required hereunder shall be less than 1,000 square feet in area except in the case of dwellings and retail stores and shops under 500 square feet:
  - A. Automobile sales and service garages: one parking space for each 300 square feet of floor area and one parking space for each four persons regularly employed on the premises.
  - B. Banks, business and professional offices: one parking space for each 200 square feet of floor area and one parking space for each office in the principal building or one and one-quarter parking spaces for each person regularly employed on the premises, whichever is greater.
  - C. Bowling alley: five spaces for each alley and one space for each five spectator seats.
  - D. Churches: one parking space for each four seats and one parking space for each classroom.
  - E. Dance halls, assembly halls: one parking space for each 100 square feet of floor area or one parking space for each four seats of maximum seating capacity, whichever is greater.
  - F. Dwellings, residential:
    - (1) One and two family dwellings: two parking spaces for each dwelling unit, exclusive of private garages.

- (2) Multi-family dwelling: two parking spaces for each of the first 12 dwelling units and one and one-quarter parking spaces for each additional dwelling unit. One garage parking space for each dwelling unit may be counted as a portion of the parking requirement; or each garage parking space may be counted as a portion of the parking requirement when a separate visitor parking area equal to one parking space for each dwelling unit is provided.
- G. Funeral homes, mortuaries: fifteen parking spaces or one parking space for each four seats in the principal auditorium or four parking spaces for each service or viewing room, whichever is greater. In addition, one parking space for each two persons regularly employed on the premises shall be provided.
- H. Furniture, appliance and other retail stores displaying large and bulky merchandise: one parking space for each 400 square feet of floor area.
- I. Hospitals, sanitariums and rest homes: one parking space for each four patient beds and one parking space for each two persons regularly employed on the premises.
- J. Hotels, motels, lodging houses: one parking space for each room or suite of rooms offered for tourist accommodations and one parking space for each two persons regularly employed on the premises.
- K. Industrial or manufacturing plants: one parking space for each two employees on the maximum working shift; or one parking space for each 1,000 square feet of floor area up to 10,000 square feet and then one parking space for each additional 1,500 square feet thereafter, whichever is greater.
- L. Restaurants, taverns, night clubs or similar places dispensing food, drink or refreshments: one parking space for each fifty square feet of floor area devoted to patron use within the establishment. In addition, one parking space must be provided for each four persons regularly employed or intended to be regularly employed on the premises.
- M. Retail stores, supermarkets, drug and sundry stores, department stores, etc.:
- (1) For stores over 2,000 square feet of floor area: one parking space for each 100 square feet of floor area.
- (2) For stores and shops under 2,000 square feet: one parking space for each 500 square feet of floor area and one space for each person regularly employed on the premises; provided, however, there shall not be less than five parking spaces.
- N. Schools and other places of education or instruction:
- (1) Elementary, junior high and other places for under driving age students: one parking space for each person regularly employed on the premises. In addition, one parking space for each 20 student desks or classroom seating facilities.
- (2) High schools: one parking space for each person regularly employed on the premises. In addition, one parking space for each twenty student desks or classroom seating facilities.

(3) Colleges, trade schools and other places of young adult learning: one parking space for each person regularly employed on the premises. In addition, one parking space for each four student desks or classroom seating facilities.

Parking spaces required by Paragraphs (1), (2) and (3) above shall be in addition to requirements for sports arenas, auditoriums, etc.

O. Sports arenas, theaters, auditoriums and other similar places of public assembly: one parking space for each four persons of maximum standing and seating capacity.

P. Wholesale establishments or warehouses: one space for each person regularly employed on the premises.

3. Provisions Applicable. In case of any building, structure or premises the use of which is not specifically mentioned herein, the provisions for a use which is mentioned, and to which said use is similar, shall apply.

4. Access Requirements. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than 10 feet in width in the case of a dwelling, and not less than 20 feet in width in all cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question. Except where provided in connection with a use permitted in a residential district, such easement of access or access drive shall not be located in any residential district.

5. Parking Area Development and Maintenance. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

A. No part of any parking space shall be closer than five feet to any established street right-of-way or alley line. In case the parking lot adjoins an "R" District, it shall be set back at least five feet from the "R" District boundary and shall be effectively screen planted.

B. Any off-street parking area and its service drives, including any commercial parking lot for more than two vehicles.

C. Any lighting used to illuminate any off-street parking area including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any "R" District.

6. Entrances and Exits. Off-street parking facilities for all uses, except one and two family dwellings fronting on a residential street shall be designed so as to permit entrance and exit by forward movement of the vehicle. The backing or backward movement of vehicles from an off-street parking facility onto a major thoroughfare, including all thoroughfares designated on the major streets plan as other than residential streets, is strictly prohibited.

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**165.31 OUTDOOR ADVERTISING SIGNS.**

1. Generally. In all districts where permitted, billboards shall be set back from the right-of-way line of any street or highway at least as far as the required front yard depth for a principal building in such districts; and when at the intersection of streets and/or highways, the setback of any outdoor advertising sign or billboard (not including, however, business identification and directional and other incidental signs otherwise permitted under the provisions of this chapter) shall not be less than the required front yard depth for a principal building in such district, from each street and/or highway.
2. Special Provisions.
  - A. In the "R" Districts, real estate signs not exceeding six square feet in area, advertising the sale, lease or rental of buildings or land on which the signs are located are permitted. Such signs shall be a distance of at least 25 feet from the street lot line, or not more than five feet in front of the main building.
  - B. In the "R" Districts, announcement signs or bulletin boards may be erected upon the premises of a charitable, religious or public institution for its own use.
  - C. In the "R" Districts, signs not exceeding two square feet in area on which is displayed only the occupant's name and home occupation may be erected not nearer than 25 feet to the front lot line or more than five feet in front of the main building.
  - D. Boarding, lodging houses, in an "R" District may have one advertising sign not exceeding 12 square feet in area. Such sign shall be a distance of at least 25 feet from the street lot line or not more than five feet in front of the main building.
  - E. Signs for service clubs and semi-public institutions are permitted within the public right-of-way, provided that they are not more than 500 feet from the corporation limit and further provided that they do not exceed three square feet in area. These signs are for the purpose of displaying the emblem of the club or institution and information on time and location of meetings.

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**165.32 TEMPORARY USES.** Notwithstanding other provisions of this chapter, the Council may, without notice, public hearing or other procedures, issue a special permit authorizing the operation of a charitable or other non-profit sponsored carnival for a period not to exceed seven days. Temporary offices, billboards and buildings incidental to the development and construction of commercial, industrial and residential projects may be erected and maintained during the time of such development and construction without permit.

**165.33 EXCEPTIONS; MODIFICATIONS; INTERPRETATION.**

1. Structures Permitted Above Height Limit. The building height limitations of this chapter shall be modified as follows:
  - A. Chimneys except chimneys on dwellings, cooling towers, fire towers, grain elevators, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, commercial radio or television towers or similar structures may be erected to a height, as measured from its mean base to its highest point, not exceeding 90% of the distance of said structure to the nearest "R" District boundary line.
  - B. Public, semi-public, or public service buildings, hospitals, sanatoriums or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot in addition to the minimum yard requirements for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.
2. Double Frontage Lots. Buildings on double frontage lots extending through from street to street shall be buffered from the rear street by a buffer wall and access to the rear street shall be prohibited.
3. Rear Yards Adjacent To Alleys. In computing the depth of a rear yard where the rear yard opens on an alley, one-half of the alley width may be included as a portion of the rear yard.
4. Other Exceptions To Yard Requirements. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for ordinary projections not to exceed 24 inches including roof overhang.

**165.34 NONCONFORMING USES.**

1. Conformance Required. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this chapter for the district in which the building or land is located.
2. Continuing Existing Uses. The lawful use of a building existing at the time of the enactment of this chapter may be continued even though such use may not conform with the regulations of this chapter for the district in which it is located. Any use in existence at the adoption hereof which was not an authorized nonconforming use under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this chapter, or amendments thereto.
3. Nonconforming Uses in Any "R" District. No building or land devoted to a use not permitted by this chapter in a residential district in which such building or land is

located, except when required by law, shall be enlarged, extended, constructed, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building, structure or premises is located, except as follows:

- A. Substitution. If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
  - B. Discontinuance. In the event that a nonconforming use of any building, structure or land is discontinued for a period of two years, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no building or structure is erected or constructed which does not conform to the provisions of this chapter and the use of land upon which no building is erected or constructed which becomes nonconforming by reason of a subsequent change in this chapter shall be discontinued within one year from the date of the change.
  - C. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than 60% of its then fair market value as determined by the Zoning Administrator, exclusive of the foundations, at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening; but if less than 60% damaged above the foundation it may be restored, reconstructed or used as before, provided that it is done within six months of such happening.
4. Nonconforming Uses In Any District Other Than "R" District.
- A. Structural Alterations and Enlargements. Any building or structure in any district other than an "R" District devoted to a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, the lot frontage, yard and height requirements of the district in which situated, provided such enlargement or alteration of construction shall be limited to buildings on land owned of record by the owner of the land devoted to the nonconforming use prior to the effective date of this chapter. In the event of such structural alterations or enlargement of buildings, the premises involved may not be used for any nonconforming use other than the use existing on the effective date of this chapter, other provisions of this chapter notwithstanding.
  - B. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of two years, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no building or structure is erected or constructed which does not conform to the provisions of this chapter, and the use of land upon which no building is erected or constructed, which becomes nonconforming by reason of a subsequent change in this chapter, shall be discontinued within two years from the date of the change.
  - C. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than 70% of its then fair market value, as determined by the Zoning Administrator, exclusive of the foundations, at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored

or reconstructed and used as before such happening; but if less than 70% is damaged above the foundation, it may be restored, reconstructed or used as before, provided that it is done within six months of such happening.

**165.35 APPEAL; COUNCIL'S ADMINISTRATIVE DUTIES.** It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts, as provided by law. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the Council shall have only the following duties:

1. Considering and adopting or rejecting proposed amendments or the repeal of this chapter as provided by law.
2. Considering applications for special permits for temporary uses as specified in Section 165.32.

**165.36 BOARD OF ADJUSTMENT.**

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The term of office of the members of the Board and the manner of their appointment shall be as provided by Section 414.8 of the *Code of Iowa*.
2. Meetings. Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of three members shall be necessary to constitute a quorum.
3. Appeals. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be taken within 10 days by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal shall have been filed with said officer, that by reason of facts stated in the certificate a stay would in the opinion of the Zoning Administrator cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the Zoning Administrator, and on due cause shown.
4. Fee for Appeal. The fee for appeal is \$10.00.
5. Hearings, Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and

decide the same within a reasonable time. At the hearing, any party may appear in person or by agent, or by attorney.

**165.37 POWERS OF BOARD OF ADJUSTMENT.**

1. Administrative Review. The Board of Adjustment has the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this chapter.
2. Special Exceptions. The Board of Adjustment has the power to permit the following exceptions to the district regulations set forth herein, subject to the requirements of this section: to permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.
3. Variances. The Board has the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board unless and until:
  - A. A written application for a variance is submitted demonstrating:
    - (1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same district;
    - (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
    - (3) That the special conditions and circumstances do not result from the actions of the applicant; and
    - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Except as provided in Paragraph C of this subsection, notice of public hearing shall be given in advance of public hearing. The owner of the property for which the variance is sought or said owner's agent and any other affected property owners shall be notified by ordinary mail. Thereafter, at the time and place designated by said notice, the public hearing shall be had, at which hearing any party may appear in person, or by agent, or by attorney.

C. The Board, in its discretion, may rule on the application for variance without holding a public hearing and provided notice for such hearing, as provided in Paragraph B of this subsection, if there is filed with said Board the written consent of all affected property owners to the granting of the variance applied for. For the purposes of this paragraph, "affected property owners" means all persons having an ownership interest in the property for which the variance is sought, all abutting property and all other property designated by the Board as being affected by the ruling of the Board on the application. The filing of the written consent of all affected property owners, as defined herein, shall not prevent the Board from holding a public hearing and providing notice

of the same, as provided in Paragraph B of this subsection, and the fact that such consents are on file shall not be considered by the Board in determining the merits of the application for variance.

D. The Board shall make findings that the requirements of this chapter have been met by the applicant for a variance.

E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance.

F. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.



**165.38 DECISIONS OF THE BOARD OF ADJUSTMENT.** In exercising the powers mentioned in Section 165.37, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of any provisions of this chapter.

**165.39 APPEALS FROM DECISIONS OF BOARD.** Any taxpayer, or any officer, department, board or bureau of the City or any person aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

**165.40 ENFORCEMENT.** All departments, officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure or purpose if the same would not conform to the provisions of this chapter. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate and take action thereon as provided in this chapter. Each day that a violation of the provisions of this chapter or failure to comply with any of its requirements continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense. Nothing herein contained shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation.

<b>EDITOR'S NOTE</b>			
The following ordinances have been adopted amending the Official Zoning Map described in Section 165.11 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.			
<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>
168			
184			
193			
227			
239			
248			
267			
269			
273			
283			
286			
290			
297			
321			
329			
334			
335			
357			
370			
394	June 14, 2000		
419	October 13, 2003		
441	February 14, 2007		
466	November 11, 2015		
467	November 11, 2015		
475	April 13, 2016		

[The next page is 927]

## CHAPTER 170

# SUBDIVISION REGULATIONS

170.01 Title	170.11 Alleys
170.02 Jurisdiction	170.12 Streets
170.03 Definitions	170.13 Required Improvements
170.04 Approval Procedure	170.14 Preliminary Plat Requirements
170.05 Subdivision Design Standards Generally	170.15 Final Plat Requirements
170.06 Blocks	170.16 Fees
170.07 Buffers	170.17 Variations and Exceptions
170.08 Easements	170.18 Enforcement
170.09 Lots	170.19 Changes and Amendments
170.10 Monuments	

**170.01 TITLE.** This chapter shall be known as the “Subdivision Ordinance of Ackley, Iowa.”

**170.02 JURISDICTION.** These regulations are adopted by the City governing the subdivision of all lands within the City limits and, pursuant to Section 354.9 of the *Code of Iowa*, all lands within one mile of the City limits.

**170.03 DEFINITIONS.** For the purpose of this chapter, certain terms and words are herein defined:

1. “Architect” means a registered architect authorized to practice architecture as defined by the laws of the State.
2. “Block” means an area of land within a subdivision that is entirely bounded by streets, highways, parks, railroad or similar fixed land division and/or the exterior boundaries of the subdivision.
3. “Building lines” are synonymous with setback lines and outline the buildable area of a lot which remains after the required yard areas have been provided for. Building lines shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by ordinance. Such building lines shall not be less than required by Chapter 165. Where the subdivided area is not under zoning control, the Commission shall require building lines in accordance with the needs of each addition.
4. “Collector streets” means those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
5. “Commission” means the Planning and Zoning Commission of the City.
6. “Cul-de-sac” means a short, minor street, having one end open to motor traffic, the other end being permanently terminated by a vehicular turn-around.
7. “District” means a section or sections of land area depicted on the official zoning map within which the regulations governing the use of building and premises or the height of buildings and area of sites are uniform.
8. “Easement” means a grant by the property owner of the use, for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner of the fee shall not erect any

permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.

9. “Engineer” means a registered engineer authorized to practice civil engineering, as defined by the laws of the State.

10. “Lot” means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

11. “Major thoroughfare” means a street used primarily for fast, intense volume, mixed vehicular and through traffic.

12. “Marginal access street” means a street that is parallel to and adjacent to a major thoroughfare or highway and which provides access to abutting properties and protection from through traffic, while limiting access to the major thoroughfare.

13. “Minor street” means a street used primarily for access to the abutting properties.

14. “Performance bond” means a surety bond or cash deposit made to the City in an amount equal to the full cost of the improvements which are required by this chapter, such cost being estimated by the City Engineer, and the surety bond or cash deposit being legally sufficient to secure to the City that the improvements will be constructed in accordance with this chapter.

15. “Plat” means a map, drawing or chart on which the subdivider’s plan of the subdivision is presented and which the subdivider submits for approval and intends in final form to record.

16. “Roadway” means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

17. “Street” means the entire width between the property lines bounded every way of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic and others, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated.

18. “Subdivider” means any person dividing or proposing to divide land so as to constitute a subdivision as defined herein and includes any agent of the subdivider.

19. “Subdivision” means the division of land into three or more lots for the purpose, whether immediate or future, of transfer of ownership or building development; or any change in existing street lines or public easements. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or if a new street is involved, any division of land.

20. “Surveyor” means a registered surveyor authorized to practice surveying, as defined by State law.

**170.04 APPROVAL PROCEDURE.** In obtaining final approval of a proposed subdivision by the Commission and Council, the subdivider shall submit a preliminary plat and a final plat in accordance with the order and procedure in this section.

1. Filing. The subdivider shall first prepare and file with the Clerk six copies of a preliminary plat conforming in detail to the requirements set forth in this chapter. Eight copies of the preliminary plat shall be submitted for subdivisions outside the City limits.
2. Referral. The Clerk shall forthwith refer two copies of the preliminary plat to the City Engineer and two copies to the Commission. In the case of a subdivision outside the City limits, the Clerk shall refer two copies of the preliminary plat to the County Board of Supervisors and keep the County Engineer advised of the status of the plat and actions taken thereon.
3. Examination. The City Engineer shall carefully examine the plat as to its compliance with the laws and ordinances of the City, the existing street system, and good engineering practices and shall, as soon as possible, submit his or her findings in duplicate to the Commission.
4. Commission Review and Recommendation. After receiving the City Engineer's report, the Commission shall study the preliminary plat and other material for conformity to this chapter. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The Commission shall approve or reject such plan within 45 days after the date of submission thereof to the Commission. If the Commission does not act within 45 days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed 60 days. The approval of the preliminary plat by the Commission shall be null and void unless the final plat is presented to the Commission within 180 days after day of approval.
5. Hearing. Before approving a preliminary plat, the Commission may, at its discretion, hold a public hearing on the proposed plat, notice of which shall be given by publication in a local newspaper of general distribution, or by posting notices on the tract, or by sending notices to affected property owners by mail. Such notice shall be given at least seven days prior to the public hearing.
6. Prerequisite for Preparation of Final Plat. Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat together with any detailed construction drawings and specifications for the improvements required under this chapter. However, no improvements, construction, grading, fill, etc. shall be performed on the site until such time as all plans, specifications, etc. have been approved by the City Engineer and until such time as the final plat has been approved by the Council.
7. Submission of Final Plat. Before submitting the final plat to the Commission for approval, the subdivider shall furnish all plans, specifications and information necessary for the detailed engineering consideration of the improvements required under this chapter and obtain approval of the City Engineer, which shall be endorsed thereon.
8. Filing of Final Plat. The final plat shall be filed in duplicate, together with a certificate from the City Engineer that the final plat is substantially in accord with the preliminary plat as approved by the Commission.
9. Consideration of Final Plat. The Commission shall then consider the final plat and if the same is approved, shall submit recommendation of approval to the Council, together with a certified copy of their resolution showing action of the Commission.

10. Acceptance of Final Plat. The Council shall then consider the plat and if the same is acceptable, and in accordance with this chapter, the Council shall accept the same. If the plat is disapproved by the Council, such disapproval shall point out in writing wherein the proposed plat is objectionable.

11. Recordation of Final Plat. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder, as provided by State law and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

**170.05 SUBDIVISION DESIGN STANDARDS GENERALLY.** The standards and details of design contained in this chapter are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of a plat, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

**170.06 BLOCKS.** Block design standards are as follows:

1. Length. No block shall be longer than 1,320 feet, except as approved by the Commission.
2. Block Corners at Intersections. At street intersections, block corners shall be rounded with a radius of not less than 25 feet; unless at any one intersection a curve radius has been previously established, then such radius shall be used as standard.

**170.07 BUFFERS.** Abutting zoning districts or existing conditions of conflicting use characteristics shall be buffered from one another as specified by Chapter 165 or as dictated by existing conditions not specifically provided for (such as but not limited to existing nonconforming use of severely conflicting character). Buffers shall be provided for all double frontage lots as provided in Subsection 170.09(2) of this chapter. Acceptable buffer methods are as follows:

1. A buffer wall shall be not less than six feet in height, constructed of a permanent low-maintenance material such as concrete block, cinder block, brick, concrete, pre-cast concrete, tile block, etc. The wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; the use of weather resistant wood, metal or manufactured substitutes may be used as an accessory material for aesthetic quality.
2. A buffer park shall be not less than 60 feet in width, designed and landscaped by a qualified architect, engineer or landscape architect. Predominant planting shall be of evergreen type trees, shrubs and plants so as to assure a year-round effectiveness; density and height of planting shall be adequate to serve as a solid and unpenetrable screen.

**170.08 EASEMENTS.** Easements for utilities shall be provided along rear or side lot lines or long alleys, if needed. Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall at his or her own expense make adequate provision for straightening or widening the channel so it will properly carry the surface water, and shall provide and dedicate to the City an easement along each side of the stream. Such easement shall be for the purpose of widening, improving, maintaining or protecting the stream. The width of such easements shall be not less than 20 feet each, plus the stream design width,

and the total width of the easement shall be adequate to provide for any necessary channel straightening or relocation.

**170.09 LOTS.**

1. Corner lots. Corner lots shall be not less than 20 feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets.
2. Double Frontage Lots. Double frontage lots other than corner lots shall be prohibited except where such lots back onto a major street or highway or except in the case of large commercial or industrial lots. Such double frontage lots shall be buffered from the rear street frontage by the methods outlined in Section 170.07. Ingress-egress shall be on the rear street.
3. Public Street. Each lot shall be provided by means of a public street with satisfactory access to an existing public street.
4. Access Frontage. Each lot shall be provided with not less than 20 feet of access frontage to a public street.
5. Compliance with Zoning Requirements. No lot shall be less in size or shape required to provide an adequate-building site in compliance with Chapter 165.
6. Lot Sizes. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed.
  - A. Lots which cannot be reasonably served by an existing public sanitary sewer system and public water mains shall have a minimum width of 100 feet, measured at the building line, and an area of not less than 20,000 square feet or the minimum permitted by Chapter 165, whichever is larger.
  - B. Lots which are not within a reasonable distance of a public sanitary sewer system but are connected to a public water supply main shall have a minimum width of 80 feet and an area of 10,000 square feet or the minimum permitted by Chapter 165, whichever is larger.
7. Side Lot Lines. Side lot lines where possible shall be at right angles or radial to the streets lines.

**170.10 MONUMENTS.** Monuments shall be placed at block corners, point of curves, change in direction along lot lines and at each lot corner in accordance with City specifications.

**170.11 ALLEYS.** Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.

**170.12 STREETS.** Street design standards are as follows:

1. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead ended, an interim turnaround may be required.

2. Comprehensive Plan. All proposed plats and subdivisions shall conform to the comprehensive plan if adopted.
  3. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property at equal or greater width, but not less than 50 feet in width, and right-of-way centerlines shall be in alignment. Variations may be recommended by the Commission wherein street continuation is not deemed necessary or beneficial to the public.
  4. Cul-de-sacs. Whenever a cul-de-sac is permitted, such street shall comply with the minimum requirements set forth on Sketch 2, available in the Clerk's office.
  5. Dedication. A deed to the City shall be given for all streets before the same will be accepted for City maintenance.
  6. Half Streets. Dedication of half streets is discouraged. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if deemed necessary by the Commission.
  7. Land Not Platted. Where the plat to be submitted includes only part of the tract owned by the subdivider, the Commission may require topography and a master plan of the entire tract of land under the ownership, mortgage purchase option or other agreements for deed.
  8. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy trafficway, the street layout shall provide motor access to such frontage by one of the following means:
    - A. A parallel street, supplying frontage for lots backing onto the trafficway;
    - B. A series of cul-de-sacs or short loops entered from and planned at right angles to such a parallel street, with their terminal lots backing onto the highway;
    - C. An access drive separated by a planting strip from the highway to which a motor access from the drive is provided at points suitably spaced;
    - D. A service drive or alley at the rear of the lots.
- Where any one of the above-mentioned arrangements is used, deed covenants or other means should prevent any private residential driveways from having direct access to the trafficway.
9. Neighborhood Plan. If any overall plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.
  10. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment.
  11. Railroads. If a railroad is involved, the subdivision plat should:
    - A. Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad;



- B. Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to back onto railroad or form a buffer strip for park, commercial or industrial use;
- C. Provide cul-de-sacs at right angles to the railroad so as to permit lots to back onto the same.

12. **Street Grades.** Streets and alleys shall be completed to grades which have been officially determined or approved by the City Engineer. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent for main and secondary thoroughfares, or 10% for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length in feet equivalent to 20 times the algebraic difference between the rates of grades, expressed in feet per hundred, or greater, if deemed necessary by the City Engineer; for secondary and minor streets, 15 times. The grade alignment and resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the City Engineer.

13. **Street Intersections.** Street intersections shall be as nearly at right angles as possible.

14. **Street Names.** All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.

15. **Street Widths.** Streets shall have a width and cross-section as shown in the comprehensive plan for the type street involved, and in any case the street shall be not less than 50 feet in width.

### **170.13 REQUIRED IMPROVEMENTS.**

1. **Responsibility.** The subdivider is responsible for the installation and/or construction of all improvements required by this chapter, and shall warrant the design, material and workmanship of such improvements, installation and/or construction for a period of two years from and after completion. Such warrant shall be by bond or other acceptable collateral, shall be subject to review by the City Attorney, shall specifically assure the expedient repair or replacement of defective improvements under warranty and shall indemnify the City from any and all costs or losses resulting from, contributed to etc., such defective improvements.

2. **Prerequisite for Approval of Final Plat.** Before the Council approves the final plat, all of the improvements specified herein shall be constructed and accepted by formal resolution of the Council. Before passage of the resolution of acceptance, the City Engineer shall report that the improvements meet all City specifications and ordinances or other requirements and agreements between the subdivider and the City.

3. **Waiver.** This requirement may be waived if the subdivider will post a performance bond or certified check with the City guaranteeing that the improvements will be constructed within a period of one year from final acceptance of the plat; however, if a performance bond is posted, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will

be accepted only after their construction has been completed and no public funds shall be expended in the subdivision until such improvements have been completed and accepted by the City.

4. Review of Performance Bond. If a performance bond is posted, such bond shall be subject to review by the City Attorney prior to acceptance and shall specifically assure the expedient installation and completion of all improvements within the specified construction time period. The performance bond shall indemnify the City from any and all costs or losses of the development and construction.

5. Waiver for Resubdivision. The Council may waive the requirements of this section for the construction and installation of some or all of the improvements in cases of resubdivisions where only the size, shape and arrangement of the lots is being changed; provided however, such waiver shall be limited to existing improvements in good repair as determined by the City Engineer. Improvements not existing or in poor repair shall meet the requirements of this chapter.

6. Waiver for Dedications. The Council may waive the requirements of this chapter for the construction and installation of some or all of the improvements in cases of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation proceeding.

7. Improvements Subject to Review. All plans, specifications, installation and construction required by this chapter shall be subject to the review, approval and inspection by the City Engineer or other authorized City representative. The subdivider shall furnish the City Engineer with a construction schedule prior to commencement of any and/or all construction; and shall notify the City Engineer, not less than twenty-four (24) hours in advance of readiness for required inspections.

8. Curbs and Gutters. Curbs and gutters shall be required on all streets. All curbs and gutters shall be constructed to the grade approved by the Council after receiving the report and recommendation of the City Engineer.

9. Drainage. All subdivisions shall include storm drainage plans for the positive removal of storm waters. Such plans shall be prepared by a registered engineer and approved by the City Engineer. The following criteria shall be considered minimum standards:

A. Run-off for street and limited area drainage shall be determined by the rational method.

B. Area run-off shall be determined by a suitable empirical formula.

C. Storm frequency chart for determination of rainfall intensity shall be not less than ten years.

D. The system shall be designed with the use of materials, flow velocities and sizes so as to assure long life, low maintenance and self-cleaning of the drainage facilities. Storm sewers less than 15 inches inside diameter must be approved by the City Engineer.

E. Underground storm drainage facilities shall be located to comply with the *Typical Standards for Utility Locations Within Public Rights-of-Way* shown on Sketch No. 1, available in the Clerk's office.

- F. The designing engineer shall, upon the completion of construction, certify to the City that the drainage facilities have been constructed and installed in accordance with plans and specifications which have been designed to comply with the intent of this chapter.
10. Gas. Gas mains shall be installed underground and located to comply with the *Typical Standards for Utility Locations Within Public Rights-of-Way* shown on Sketch No. 1, available in the Clerk's office.
11. Paving.
- A. Concrete and/or asphaltic concrete pavement shall be designed by a registered engineer in accordance with the *Standard Specifications for Primary and Secondary Roads* of the Iowa State Highway Commission; provided, however, that the use of asphaltic concrete must be approved by the City Engineer.
- B. The minimum roadway shall be 25 feet unless a greater width is required by the "*Major Thoroughfares Plan*". The minimum roadway for alleys shall be 16 feet.
- C. The designing engineer shall at the completion of construction, certify to the City that the pavement has been constructed and installed in accordance with said engineer's plans and specifications as approved by the City Engineer.
12. Rights-of-way. The entire width of rights-of-way for streets shall be graded in accordance with the cross-section as shown in the comprehensive plan for the type street involved. Slopes of cuts or fills abutting the right-of-way shall gradually meet existing grades so as to reduce possible erosion, improve access and allow adequate sight distance. In no case shall an unretained slope be more steep than one foot of rise to three feet horizontal. Retaining methods for steeper slopes shall be approved by the City Engineer.
13. Sidewalks. Sidewalks can 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 recommendation of the City Engineer.
14. Sewers. Where a public sanitary sewer is reasonably accessible, the subdivider shall provide each lot in the subdivision with connection to the sewer. Further, where the existing sewer may be reasonably extended through the subdivision so as to provide for continuous future development, such provisions shall be made. All sanitary sewers shall be located to comply with the *Typical Standards for Utility Locations Within Public Rights-of-Way*, shown on Sketch No. 1, on file in the Clerk's office. All house laterals shall be installed to the right-of-way prior to paving of the street. Sanitary sewer shall have a minimum diameter of eight inches and be made available to each lot. Any plat that cannot reasonably be served by the public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be in accordance with the State Board of Health. The designing engineer shall furnish the City three certified copies of as-built plans and certify that the facilities have been installed in accordance with such plans and specifications. As-built plans shall specifically show service line stub locations.
15. Utility Cables. Overhead or underground cables shall be located to comply with the *Typical Standards for Utility Locations Within Public Rights-of-Way*, shown

on Sketch No. 1, on file in the Clerk's office, or shall be placed at the back lot lines within the area of perpetual easement.

16. Water Lines.

A. Where a public water main is accessible, the subdivider shall connect with such water main and provide a water connection for each lot and stubbed into the proper line in accordance with the water department standards, procedure and supervision.

B. Water mains shall have a minimum diameter of four inches with larger sizes for feeder mains. Water mains shall be located to comply with the *Typical Standards for Utility Locations Within Public Rights-of-Way* shown on Sketch No. 1, on file in the Clerk's office, or shall be placed at the back lot lines within the area of perpetual easement; with a minimum cover of sixty-six (66) inches. Water lines shall be available to each lot, and such service lines shall be installed prior to paving of the street.

C. The designing engineer shall furnish the City with three certified copies of as-built plans and certify that the facilities have been installed in accordance with such plans and specifications. As-built plans shall specifically show service line stub locations.

**170.14 PRELIMINARY PLAT REQUIREMENTS.** The preliminary plat of a subdivision is not intended to serve as a record plat and shall be submitted for review separately and prior to submission of the final plat. Its purpose is to show on a map all facts needed to enable the Commission to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. The subdivider or his or her representative may call at the City offices in advance of submitting the preliminary plat in order to discuss the proposed subdivision and in order to obtain information as to the requirements necessary for approval of the plat.

1. Number of Copies and Scale. Six copies of the preliminary plat shall be submitted as prescribed for review. The scale of the map shall be 1" = 50' on small subdivisions and one inch equals 1" = 100' on large subdivisions, unless otherwise approved by the Commission.

2. Contents of Preliminary Plat. The contents of the preliminary plat shall be as follows:

A. Areas dedicated for public use, such as schools, parks, playgrounds and streets.

B. Boundaries of the proposed subdivision shall be labeled and indicated by a heavy line.

C. Building setback lines for frontage and side streets.

D. Buffer easement and method where required.

E. Contour lines at intervals of not more than five feet.

F. Corner radii.

G. Easements for public utility purposes.

H. Existing buildings, railroads, underground utilities and other rights-of-way and easements.

- I. Location and names of adjoining subdivisions.
  - J. Location, names and widths of all existing and proposed roads, alleys, streets and highways in or adjoining the area being subdivided.
  - K. Location sketch showing subdivision location within the quarter section. Scale shall be one 1" = 600'.
  - L. Lot areas (approximate) of all nonrectangular lots and the area of smallest rectangular lot.
  - M. Lot numbers.
  - N. Name and address of engineer and surveyor.
  - O. Name and address of recorded owner and/or developer.
  - P. Name of subdivision, date, compass point, scale, and official description and acreage of the property being platted.
  - Q. Proposed lot lines with approximate dimensions.
  - R. Proposed utility service which shall include:
    - (1) Source of water supply.
    - (2) Provision for sewage disposal, drainage and flood control.
3. Accompanying Material. The accompanying material to the preliminary plat shall be as follows:
- A. An abstractor's title together with an attorney's opinion, in duplicate, showing that the fee title to the subdivision is in the ownership as shown on the plat and showing any encumbrances that may exist against said land.
  - B. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the City Engineer.
  - C. Restrictions proposed, if any, to be included in the owner's dedication of the plat.
  - D. Written statement of the appropriate officials of the availability of gas and electricity to the proposed subdivision.
  - E. Written and signed statements explaining how and when the subdivider proposes to provide and install all improvements required by this chapter. Such statement shall acknowledge required inspections and approvals by City Engineer.

**170.15 FINAL PLAT REQUIREMENTS.** Final plat requirements are as follows:

- 1. Number of Copies and Scale. When and if the preliminary plat is approved, the subdivider shall submit six copies of the final plat for review by the Commission. The scale of the map shall be 1" = 100' on large subdivisions, unless otherwise approved by the Commission.
- 2. Contents. The final plat shall be drawn in India ink on reproducible linen or mylar film on an 18 x 24-inch or 24 x 36-inch size with a border line allowing a three-inch binding margin along left-hand narrow width and a one-half inch margin on the

remaining narrow width and two long sides. The following information shall be shown on the plat:

- A. Block lines shall be designated by heavy solid lines.
- B. Block corners shall be shown rounded by appropriate radius with arch length (A=), chord (ch=), central angle ( $\Delta$ =), radius (R=) and tangent (T=) shown.
- C. Boundary lines shall be designated by a heavy line of long dash-two dots, etc., and labeled "plat boundary."
  - (1) Boundary dimensions from angle point to angle point shall be shown for all sides of the closed traverse.
  - (2) Bearings, based on an assumed meridian approximating north, of all boundary lines or internal angles of all angle points on the boundary shall be shown.
- D. Building setback lines for frontage and side streets shall be designated by a fine short dashed line, labeled "building setback line" and dimensioned.
- E. Centerlines of all street rights-of-way shall be designated by a fine line of long dash-short dash or dot, etc., and dimensions from angle point to angle point, point of curvature to a point of tangency, intersection to intersection, or any combination thereof between intersections with the appropriate bearings, angles, curve data, right-of-way widths and distances clearly shown. Curve data shall include arc length (A=), chord (ch=), central angle ( $\Delta$ =) radius (R=), and tangent (T=). All points of curvature (P.C.), and points of tangency (P.T.) shall be located and labeled.
- F. Certification by a registered engineer and/or land surveyor in accordance with the Iowa State Law.
- G. Easements for public utilities and drainage facilities shall be designated by fine line of medium length dashes, and appropriately labeled with reserved width and type of easement.
- H. Fractional lines and corners of the government township and section surveys shall be appropriately labeled and dimensioned as applicable to the plat. All plats shall be tied to a known section or fractional corners by distances and bearings or angles.
- I. Legal description of the platted area shall be included on the plat.
- J. Location sketch showing subdivision location within the quarter section. Scale shall be 1" = 600'.
- K. Lot lines shall be designated by medium fine to solid lines.
- L. Lots shall be numbered consecutively, all sides dimensioned. The bearings or corner angles of all lot lines which are not parallel to the block lines shall be shown and lines intersecting a curved line shall be labeled as radial or not radial as applicable. Dimensions of lot lines which are curved shall include appropriate curve data: Arc length (A), central angle ( $\Delta$ ) and chord (ch); where the radius is not shown elsewhere it shall be shown. The area of all nonrectangular lots shall be shown to the nearest one hundred square feet.
- M. Permanent reference monuments shall be labeled (P.R.M.) and located.

- N. Scale shall be indicated graphically as the scale in feet along with the compass point.
- O. Street names, location, lot designation and right-of-way width for all streets within or abutting the plat shall be shown.
- P. Surveyors notes shall include the following as appropriate or applicable to the particular plat:
- (1) All bearings are based on an assumed meridian for computation purposes.
  - (2) Block corner radii are 25 feet unless noted otherwise.
  - (3) Dashed lines shown at the rear or sides of certain lots are easements reserved for the installation and maintenance of public utilities and drainage facilities.
  - (4) Any other notes deemed necessary for the particular plat.
3. Accompanying Material. The accompanying data to a final plat shall be as follows:
- A. A deed to the City properly executed for all streets intended as public streets and for any other property intended for public use.
- B. Any protective covenant or restriction to be imposed upon the plat shall be submitted for approval.
- C. Plans and profiles of all streets and alleys at a fifty-foot horizontal scale and five-foot vertical scale. Profiles shall show location, size and grade of all conduits, sewers, pipelines, etc., to be placed under the streets and alleys. Profiles shall be drawn with north oriented to the top or left side of the drawing.
- D. The following documents:
- (1) A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds.
  - (2) Performance bond, if any.
  - (3) A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
  - (4) An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

- (5) A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.
  - (6) A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
  - (7) Drainage plans for the positive removal of storm water.
4. Recording Plat. There shall be three copies stamped as approved by the Council.
- A. The original linen tracing shall be retained for file by the Clerk.
  - B. One copy shall be filed with the County Recorder.
  - C. One copy with accompanying resolution by the Council approving and accepting the plat shall be filed with the County Auditor. This copy must be accompanied by the certificate of the owner and spouse, if any, referred to above.

**170.16 FEES.** Before a preliminary plat may be considered by the Commission, the subdivider or his or her agent shall deposit with the Treasurer a fee of \$25.00 to be credited to the General Fund of the City.

**170.17 VARIATIONS AND EXCEPTIONS.** Whenever the tract proposed to be subdivided is of such unusual topography, size or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardships or injustices, the Council, upon recommendation of the Commission, may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner; but so, at the same time, the public welfare and interest of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

**170.18 ENFORCEMENT.** No plat or subdivision shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein. The Council shall not permit any public improvements over which it has control to be made from City funds, or any City money expended for improvements or maintenance on any street in any area that has been subdivided unless such subdivision and streets have been approved in accordance with the provisions contained in this chapter, and accepted by the Council as a public street.

**170.19 CHANGES AND AMENDMENTS.** Any provision of this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall be given in a newspaper of general circulation at least 15 days prior to the hearing.



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# APPENDIX TO CODE OF ORDINANCES

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## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

**1. OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

**2. DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

**3. SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

**4. RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

**RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

**SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

**DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

**AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

**ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ACKLEY, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF \_\_\_\_\_ STREET

BE IT ENACTED by the City Council of the City of Ackley, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Ackley, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. \_\_\_\_\_ Street, on the \_\_\_\_ side, from \_\_\_\_\_ Street to \_\_\_\_\_ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ACKLEY, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON \_\_\_\_\_ STREET.

BE IT ENACTED by the City Council of the City of Ackley, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Ackley, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on \_\_\_\_\_ Street to stop at \_\_\_\_\_ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No.\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ACKLEY, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Ackley, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Ackley, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of \_\_\_\_\_ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$\_\_\_\_\_ dollars per \_\_\_\_\_.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:  
\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

**ORDINANCES NOT CONTAINED IN THE  
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

*(Code of Iowa, Sec. 380.8)*

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO ACKLEY, IOWA**

Be It Enacted by the City Council of the City of Ackley, Iowa:

**SECTION 1.** The *(location or legal description of street or alley)* to Ackley, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.



**SUGGESTED FORMS**

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**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 Ackley, 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 Ackley, 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 Ackley, 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 Ackley, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**RESOLUTION AND ORDER  
REGARDING DANGEROUS BUILDING**

**BE IT RESOLVED**, by the City Council of the City of Ackley, 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 Ackley, 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 Ackley, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
 (Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_, Iowa

You are hereby notified that the City Council of Ackley, 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 Ackley, Iowa

By: \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Ackley, 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



CITY OF ACKLEY, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: \_\_\_\_\_ APPLICATION NO.: \_\_\_\_\_ FEE: \_\_\_\_\_

Applicant \_\_\_\_\_  
Address \_\_\_\_\_

Tel. No. (Bus.) \_\_\_\_\_ (Res.) \_\_\_\_\_

<b>FOR OFFICE USE ONLY</b>	
_____	FEE PAID
_____	PLOT DIAGRAM SUBMITTED
_____	PLAN SUBMITTED
_____	APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

BUILD                                       ALTER                                       CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS \_\_\_\_\_

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: \_\_\_\_\_

\_\_\_\_\_

PRESENT USE: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

\_\_\_\_\_

*A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.*

\*\*\*\*\*

I have read Chapter \_\_\_\_\_ of the Code of Ordinances of Ackley, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

\_\_\_\_\_  
(Applicant's Signature)

**CITY OF ACKLEY, IOWA**

**BUILDING/LAND USE PERMIT**

PERMIT NO. \_\_\_\_\_ (Date)

APPLICATION NO. \_\_\_\_\_  
(Date of Application)

LOCATION \_\_\_\_\_

\*\*\*\*\*

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER \_\_\_\_,  
"BUILDING AND LAND USE REGULATIONS" OF THE CODE OF ORDINANCES OF  
ACKLEY, IOWA.

APPROVED BY COUNCIL \_\_\_\_\_ (Date)

\*\*\*\*\*

THIS PERMIT ISSUED TO:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Building Official

CITY OF ACKLEY, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_

APPLICATION NO. OF BUILDING/LAND USE PERMIT \_\_\_\_\_

\*\*\*\*\*

APPLICANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE NO. (Business) \_\_\_\_\_

(Home) \_\_\_\_\_

\*\*\*\*\*

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Building Official

CITY OF ACKLEY, IOWA

CERTIFICATE OF OCCUPANCY

NO. \_\_\_\_\_

- PERMANENT
- TEMPORARY

DATE: \_\_\_\_\_

C.O. APPLICATION NO. \_\_\_\_\_

BUILDING/LAND USE PERMIT NO. \_\_\_\_\_

DATE ISSUED: \_\_\_\_\_

LOCATION \_\_\_\_\_

\*\*\*\*\*

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER \_\_\_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_, IOWA, AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

\*\*\*\*\*

THIS CERTIFICATE ISSUED TO:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Building Official

