**Code of Ordinances**

**of the**

**CITY OF**

**Exira, Iowa**

**Prepared By: Local Government Professional Services, Inc.**

**DBA Iowa Codification**

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

***Adopted October 25, 2019, by Ordinance No*. *236-10-14-19***

**SUPPLEMENT RECORD**

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| --- | --- | --- | --- | --- |
| **SUPPLEMENT** | | **ORDINANCES AMENDING CODE** | | |
| **Supp. No.** | **Repeals, Amends or Adds** | **Ord. No.** | **Date** | **Subject** |
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**CODE OF ORDINANCES**

**CITY OF EXIRA, IOWA**

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CHAPTER 1

CODE OF ORDINANCES

|  |  |
| --- | --- |
| 1.01 Title | 1.08 Amendments |
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| 1.03 City Powers | 1.10 Altering Code |
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| 1.05 Personal Injuries | 1.12 Warrants |
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1.01 TITLE.  This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Exira, 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 Exira, Iowa.
3. “Clerk” means the city clerk of Exira, 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 Exira, Iowa.
6. “Council” means the city council of Exira, Iowa.
7. “County” means Audubon County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Exira, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. “Shall” imposes a duty.
16. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. “State” means the State of Iowa.
18. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.
19. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

1.14 STANDARD PENALTY.  Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least $65.00 but not to exceed $625.00.[[1]](#footnote-1)†

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

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CHAPTER 2

CHARTER

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

2.01 TITLE.  This chapter may be cited as the charter of the City of Exira, Iowa.

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

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CHAPTER 3

MUNICIPAL INFRACTIONS

|  |  |
| --- | --- |
| 3.01 Municipal Infraction | 3.04 Civil Citations |
| 3.02 Environmental Violation | 3.05 Alternative Relief |
| 3.03 Penalties | 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.[[2]](#footnote-2)†

(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.
2. First offense – not to exceed $750.00
3. Each repeat offense – not to exceed $1,000.00

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

1. Special Civil Penalties.
2. 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.
3. 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

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| 5.01 Oaths | 5.07 Conflict of Interest |
| 5.02 Bonds | 5.08 Resignations |
| 5.03 Powers and Duties | 5.09 Removal of Appointed Officers and Employees |
| 5.04 Books and Records | 5.10 Vacancies |
| 5.05 Transfer to Successor | 5.11 Gifts |
| 5.06 Meetings | 5.12 Gender Balance |

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)

1. 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 Exira as now or hereafter required by law.”

(Code of Iowa, Sec. 63.10)

1. 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:
2. Mayor
3. City Clerk
4. Members of all boards, commissions, or bodies created by law.

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

1. 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)

1. 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)

1. 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)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

1. 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])

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

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

1. 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])

1. Newspaper. The designation of an official newspaper.

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

1. 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])

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

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

1. 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])

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

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

1. 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])

1. 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])

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

5.12 GENDER BALANCE. No person shall be appointed or reappointed to any board if that appointment or reappointment would cause the number of members of the board to be greater than one-half the membership of the board plus one for an odd numbered board. A fair and unbiased method of selecting the best qualified applicants shall be used if a good faith effort to appoint a qualified person to fill a vacancy on the board in compliance with Section 69.16A of the *Code of Iowa* for a period of three months has been unable to make a compliant appointment.

(Code of Iowa Sec. 69.16A)

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CHAPTER 6

CITY ELECTIONS

|  |  |
| --- | --- |
| 6.01 Nominating Method to Be Used | 6.04 Preparation of Petition and Affidavit |
| 6.02 Nominations by Petition | 6.05 Filing; Presumption; Withdrawals; Objections |
| 6.03 Adding Name by Petition | 6.06 Persons Elected |

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 10 eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

6.03 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

(Code of Iowa, Sec. 45.2)

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

(Code of Iowa, Sec. 45.3, 45.5 & 45.6)

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

|  |  |
| --- | --- |
| 7.01 Purpose | 7.05 Operating Budget Preparation |
| 7.02 Finance Officer | 7.06 Budget Amendments |
| 7.03 Cash Control | 7.07 Accounting |
| 7.04 Fund Control | 7.08 Financial Reports |

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

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

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

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer’s making adequate reports relating thereto as required by law, ordinance, or Council directive.
2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City’s written investment policy and State law, including joint investments as authorized by Section 384.21 of the *Code of Iowa*.

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

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])

1. 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])

1. 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])

1. 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:
2. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and
3. 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])

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.
4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City’s trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City’s emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

1. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.
2. If the City has an internet site, the notice shall also be posted and clearly identified on the City’s internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

(1) The sum of the current fiscal year’s actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year’s combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(2) The effective tax rate calculated using the sum of the current fiscal year’s actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year’s actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection.

1. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.
2. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year’s actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.
3. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City’s internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.
4. Council Review. The Council shall review the proposed budget and may make any adjustments it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption.
5. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

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

1. 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])

1. 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])

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

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

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Mayor and Clerk,+ and in special circumstances the Superintendent of Public Works, following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include (but is not limited to) payment of utility bills, contractual obligations, payroll, and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

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| 8.01 Purpose | 8.06 Applications |
| 8.02 Definitions | 8.07 Approval |
| 8.03 Period of Partial Exemption | 8.08 Exemption Repealed |
| 8.04 Amounts Eligible for Exemption | 8.09 Dual Exemptions Prohibited |
| 8.05 Limitations |  |

8.01 PURPOSE. The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers.

8.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods that are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council.
4. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including (but not limited to) the design and production or manufacture of prototype products for experimental use and corporate research services that do not have a primary purpose of providing on-site services to the public.
5. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers is eligible to receive a partial exemption from taxation for a period of five years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

(Code of Iowa, Sec. 427B.3)

8.04 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual value added, which is eligible to be exempt from taxation, shall be as follows:

(Code of Iowa, Sec. 427B.3)

1. For the first year, 75 percent.
2. For the second year, 60 percent.
3. For the third year, 45 percent.
4. For the fourth year, 30 percent.
5. For the fifth year, 15 percent.

8.05 LIMITATIONS. The granting of the exemption under this chapter for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

(Code of Iowa, Sec. 427B.3)

8.06 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

(Code of Iowa, Sec. 427B.4)

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least 30 days after such hearing, the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

(Code of Iowa, Sec. 427B.4)

8.08 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this chapter ceases to be of benefit to the City, the City Council may repeal this chapter, but all existing exemptions shall continue until their expiration.

(Code of Iowa, Sec. 427B.5)

8.09 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Code of Iowa, Sec. 427B.6)

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CHAPTER 9

URBAN REVITALIZATION

9.01 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 area within the corporate limits of the City of Exira, Iowa

The Urban Revitalization Plan for the City is on file in the office of the Clerk.

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CHAPTER 15

MAYOR

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

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])

1. 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])

1. 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])

1. Mayor’s Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

1. 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.
2. 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.
3. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
4. 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.
5. 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.
6. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
7. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem

15.04 COMPENSATION. The salary of the Mayor is $50.00 for each meeting of the Council attended, payable annually.

(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

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| --- | --- |
| 16.01 Vice President of Council | 16.03 Voting Rights |
| 16.02 Powers and Duties | 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 | 17.04 Council Meetings |
| 17.02 Powers and Duties | 17.05 Appointments |
| 17.03 Exercise of Power | 17.06 Compensation |

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

1. 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)

1. 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])

1. 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)

1. 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])

1. Measures Become Effective. Measures passed by the Council become effective in one of the following ways:
2. 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])

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

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

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

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

1. 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])

1. 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. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as determined by 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])

1. Quorum. A majority of all Council members is a quorum.

(Code of Iowa, Sec. 372.13[1])

1. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

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

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

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

17.06 COMPENSATION. The salary of each Council member is $20.00 for each meeting of the Council attended, payable annually.

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

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CHAPTER 18

CITY CLERK

|  |  |
| --- | --- |
| 18.01 Appointment and Compensation | 18.07 Certification |
| 18.02 Powers and Duties: General | 18.08 Records |
| 18.03 Publication of Minutes | 18.09 Attendance at Meetings |
| 18.04 Recording Measures | 18.10 Licenses and Permits |
| 18.05 Other Publications | 18.11 Notification of Appointments |
| 18.06 Authentication | 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 one year. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.
2. Manner of Publication. The three public places where public notices, ordinances, notices of elections and other matters permitted to be posted are to be displayed are:

City Hall

City Library

Post Office

Exchange State Bank

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

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])

1. 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])

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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| 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 Exira Public Library. It is referred to in this chapter as the Library.

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Exira Public Library, hereinafter referred to as the board, consists of seven members. Five board members shall be residents of the City, appointed by the City Council. One board member shall be a resident of the rural area served by said library and shall be appointed by the Mayor with the approval of the Audubon County Board of Supervisors. One board member shall represent the interests of either area and shall be appointed by the Mayor with the approval of the City Council if said member is a resident of the City or the Audubon County Board of Supervisors if said member is a resident of the rural area which the library serves.

(Code of Iowa, Sec. 392.5)

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. Any nonresident members of the Board shall be bona fide citizens and residents of the rural area served by the Library. Members shall be over the age of 18 years.

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
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)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

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| 22.01 Planning and Zoning Commission | 22.04 Compensation |
| 22.02 Term of Office | 22.05 Powers and Duties |
| 22.03 Vacancies |  |

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

(Code of Iowa, Sec. 414.6 & 392.1)

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)

1. 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)

1. 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)

1. 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)

1. 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)

1. 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)

1. 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)

1. 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)

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

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

(Code of Iowa, 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

35.07 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)

1. 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)

1. 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)

1. 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.
2. 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.
3. Notification. Whenever death, serious bodily injury, or property damage in excess of $200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal’s Division immediately. For all other fires causing an estimated damage of $50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal’s Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

1. 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)

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

(Code of Iowa, Sec. 100.13)

1. 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.
2. 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.
3. 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 & 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 & 3])

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

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

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

(Code of Iowa, Sec. 100.41)

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CHAPTER 40

PUBLIC PEACE

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

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])

1. 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:
2. 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)

1. 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)

1. 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)

1. 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)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. “Deface” means to intentionally mar the external appearance.
2. “Defile” means to intentionally make physically unclean.
3. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
4. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
5. “Show disrespect” means to deface, defile, mutilate, or trample.
6. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

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

1. 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:
2. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
3. 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.
4. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
2. “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.

1. “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.
2. “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.
3. 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:
4. Personal Injury: $250,000.00 per person
5. Property Damage: $50,000.00
6. Total Exposure: $1,000,000.00
7. Consumer Fireworks.
8. 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.
9. 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.

1. 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.
2. Novelties. This section does not apply to novelties.

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section “drug paraphernalia” means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:
2. Manufacture a controlled substance.
3. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
4. Test the strength, effectiveness, or purity of a controlled substance.
5. Enhance the effect of a controlled substance.

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

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

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

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

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)

1. Definitions. For purposes of this section:

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

1. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.
2. “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*.
3. “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.
4. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.
5. “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.
6. “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.

1. Specific Exceptions. “Trespass” does not mean either of the following:

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

1. 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.
2. 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
2. Section 21.10 – Injury to Books or Property
3. Section 21.11 – Theft of Library Property
4. Chapter 105 – Solid Waste Control and Recycling
5. Section 105.07 – Littering Prohibited
6. Chapter 135 – Street Use and Maintenance
7. Section 135.01 – Removal of Warning Devices
8. Section 135.02 – Obstructing or Defacing
9. Section 135.03 – Placing Debris On
10. Section 135.04 – Playing In
11. Section 135.05 – Traveling on Barricaded Street or Alley
12. Section 135.08 – Burning Prohibited
13. Section 135.12 – Dumping of Snow
14. Chapter 136 – Sidewalk Regulations
15. Section 136.11 – Interference with Sidewalk Improvements
16. Section 136.14 – Fires or Fuel on Sidewalks
17. Section 136.15 – Defacing
18. Section 136.16 – Debris on Sidewalks
19. Section 136.17 – Merchandise Display
20. Section 136.18 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

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

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
2. “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*.
3. “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.
4. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
5. “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.
6. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.
7. A person shall not simulate intoxication in a public place.
8. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

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

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

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

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| 46.01 Cigarettes and Tobacco | 46.02 Contributing to Delinquency |

46.01 CIGARETTES AND TOBACCO. It is unlawful for any person under 18 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under 18 years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person’s employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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 and Grasses. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard, including any City-owned property between the abutting property line and the street right-of-way. Grass and weeds which exceed eight inches in height for developed lots in the City, and grasses and weeds which exceed 12 inches on undeveloped lots as well as noxious weeds as defined in *Code of Iowa* Section 317.1A shall also be categorized as nuisances under this subsection. Any grasses grown for agricultural purposes within agricultural zoned properties, or in areas declared by the City Council to be a natural woodlands area shall be exempt from this subsection.
10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 150)**
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. Infected Trees. Trees infected with the Emerald Ash Borer.

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 150)**

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: [[3]](#footnote-3)†
2. Description of Nuisance. A description of what constitutes the nuisance.
3. Location of Nuisance. The location of the nuisance.
4. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
5. Reasonable Time. A reasonable time within which to complete the abatement.
6. 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.
7. 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])

1. 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.
2. 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])

1. 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])

1. 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])

1. 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)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

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

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:
3. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
4. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
5. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
6. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
7. 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.
8. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

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

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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| 55.01 Definitions | 55.09 Rabies Vaccination |
| 55.02 Animal Neglect | 55.10 Owner’s Duty |
| 55.03 Livestock Neglect | 55.11 Confinement |
| 55.04 Abandonment of Cats and Dogs | 55.12 At Large: Impoundment |
| 55.05 Livestock | 55.13 Disposition of Animals |
| 55.06 At Large Prohibited | 55.14 Impounding Costs |
| 55.07 Damage or Interference | 55.15 Pet Awards Prohibited |
| 55.08 Annoyance or Disturbance |  |

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

1. “Advertise” means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. “Animal” means a nonhuman vertebrate.

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

1. “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.
2. “Business” means any enterprise relating to any of the following:
3. The sale or offer for sale of goods or services.
4. A recruitment for employment or membership in an organization.
5. A solicitation to make an investment.
6. An amusement or entertainment activity.
7. “Fair” means any of the following:
8. 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*.
9. An exhibition of agricultural or manufactured products.
10. An event for operation of amusement rides or devices or concession booths.
11. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
12. “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)

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

55.09 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)

55.10 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)

55.11 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)

55.12 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

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

(Code of Iowa, Sec. 351.37, 351.41)

55.14 IMPOUNDING COSTS. Impounding costs shall be payable, as determined by the Council.

(Code of Iowa, Sec. 351.37)

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:
2. A prize for participating in a game.
3. A prize for participating in a fair.
4. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
5. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
6. Exceptions. This section does not apply to any of the following:
7. 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.
8. 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.

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CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

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| --- | --- |
| 56.01 Definitions | 56.03 Keeping of Vicious Animals Prohibited |
| 56.02 Keeping of Dangerous Animals Prohibited | 56.04 Seizure, Impoundment and Disposition |

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

1. “Dangerous animal” means the following animals: [[4]](#footnote-4)†
2. Badgers, wolverines, weasels, skunk and mink.
3. Raccoons.
4. Bats.
5. Scorpions.
6. Opossums.
7. Piranhas.
8. “Vicious animal” means any animal, except for a dangerous animal as listed above, that has attacked, bitten, or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal: (i) has bitten more than one person during the animal’s lifetime; or (ii) has bitten one person on two or more occasions during the animal’s lifetime; or (iii) has attacked any domestic animal or fowl without provocation, causing injury or death while off the property of the owner.

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City.

56.03 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording “Guard Dog,” “Vicious Dog” or words of similar import, and the owner of such premises shall inform the Mayor or peace officer that a guard dog is on duty at said premises.

56.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.
5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor or peace officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed (or of the Council after appeal) constitutes a simple misdemeanor.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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| 60.01 Title | 60.05 Reports of Traffic Accidents |
| 60.02 Definitions | 60.06 Peace Officer’s Authority |
| 60.03 Administration and Enforcement | 60.07 Obedience to Peace Officers |
| 60.04 Power to Direct Traffic |  |

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Exira Traffic Code” (and are referred to herein as the “Traffic Code.”)

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
11. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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CHAPTER 61

TRAFFIC CONTROL DEVICES

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

61.01 INSTALLATION. The Mayor and Council 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 Superintendent of Public Works shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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| 62.01 Violation of Regulations | 62.05 Quiet Zones |
| 62.02 Play Streets Designated | 62.06 Obstructing View at Intersections |
| 62.03 Vehicles on Sidewalks | 62.07 Engine and Compression Brakes |
| 62.04 Clinging to Vehicle |  |

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.
55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
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127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
150. Section 321.450 – Hazardous materials transportation.
151. Section 321.454 – Width of vehicles.
152. Section 321.455 – Projecting loads on passenger vehicles.
153. Section 321.456 – Height of vehicles; permits.
154. Section 321.457 – Maximum length.
155. Section 321.458 – Loading beyond front.
156. Section 321.460 – Spilling loads on highways.
157. Section 321.461 – Trailers and towed vehicles.
158. Section 321.462 – Drawbars and safety chains.
159. Section 321.463 – Maximum gross weight.
160. Section 321.465 – Weighing vehicles and removal of excess.
161. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 ENGINE AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate or for any person to cause to be used or operated within the City, any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, which results in excessive, loud, unusual or explosive noise from such vehicle.
2. The usage of an engine brake, compression brake, or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

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CHAPTER 63

SPEED REGULATIONS

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

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 Five MPH Speed Zones. A speed in excess of five miles per hour is unlawful in Legion Park.
2. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on Washington Street between its intersections with Factory Street and U.S. Highway 71.
3. Special 50 MPH Speed Zones. A speed in excess of 50 miles per hour is unlawful on U.S. Highway 71 from the southern limits of the City to the northern limits of the City.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

|  |  |
| --- | --- |
| 64.01 Turning at Intersections | 64.03 Left Turn for Parking |
| 64.02 U-Turns |  |

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

(Code of Iowa, Sec. 321.311)

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the business district, at the following designated intersections and at intersections where there are automatic traffic signals. No driver shall make a U-turn at any intersection without having given a clearly audible signal if a pedestrian may be affected by such movement, or having given appropriate signal if any other vehicle is to be affected by such movement.

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

1. Washington Street and Carthage Street.
2. Washington Street and Jefferson Street.
3. Washington Street and Kilworth Street.
4. Washington Street and Edgerton Street.
5. Washington Street and Cottage Street.
6. Main Street and Carthage Street.
7. Jefferson Street and Main Street.
8. Kilworth Street and Main Street.
9. Carthage Street and Harrison Street.
10. Jefferson Street and Harrison Street.
11. Kilworth Street and Harrison Street.

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

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| --- | --- |
| 65.01 Through Streets | 65.05 School Stops |
| 65.02 Stop Required | 65.06 Stop Before Crossing Sidewalk |
| 65.03 Four-Way Stop Intersections | 65.07 Stop When Traffic Is Obstructed |
| 65.04 Yield Required | 65.08 Yield to Pedestrians in Crosswalks |

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. Washington Street commencing with its intersection with U.S. Highway 71 and extending east to the eastern corporate limits of the City.
2. Edgerton Street from the south line of Washington Street to the south side of the Exira Community School Addition to the Town of Exira.

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

(Code of Iowa, Sec. 321.345)

1. Main Street. Vehicles traveling on Main Street shall stop at Jefferson Street.
2. Harrison Street. Vehicles traveling east on Harrison Street shall stop at Fairview Street.
3. Church Street. Vehicles traveling west on Church Street shall stop at Kilworth Street.
4. Harrison Street. Vehicles traveling on Harrison Street shall stop at Kilworth Street.
5. Secondary Road. Vehicles traveling north on the extension into the City on the secondary road running north and south through Original Lot 18, Section 4, Township 78 North, Range 35 West of the 5th P.M., shall stop at South Street.
6. Main Street. Vehicles traveling on Main Street shall stop at Cottage Street.
7. Main Street. Vehicles traveling on Main Street shall stop at Carthage Street.
8. Harrison Street. Vehicles traveling on Harrison Street shall stop at Jefferson Street.
9. Depot Street. Vehicles traveling on Depot Street shall stop at Jefferson Street.
10. Depot Street. Vehicles traveling on Depot Street shall stop at Cottage Street.
11. Carthage Street. Vehicles traveling north on Carthage Street shall stop at the point where said street forms a “T” intersection with School Street, said stop to be made before entering upon said intersection, and shall yield the right-of-way to traffic on said School Street as well as traffic on Carthage Street in and north of said intersection with South Street.
12. East Main Street. Vehicles traveling west on East Main Street shall stop at South Kilworth Street.
13. South Jefferson Street. Vehicles traveling on South Jefferson Street shall stop at South Street.
14. Hill Haven Street. Vehicles traveling on Hill Haven Street shall stop at East Side Drive.
15. Depot Street. Vehicles traveling on Depot Street shall stop at Carthage Street.

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Carthage Street and South Street.

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

(Code of Iowa, Sec. 321.345)

- NONE -

65.05 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver 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 driver shall have passed such school site.

(Code of Iowa, Sec. 321.249)

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

|  |  |
| --- | --- |
| 66.01 Temporary Embargo | 66.03 Load Limits Upon Certain Streets |
| 66.02 Permits for Excess Size and Weight | 66.04 Truck Routes |

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of five tons at any time upon any of the streets, alleys or public grounds in the City.

(Code of Iowa, Sec. 321.473 & 475)

66.04 TRUCK ROUTES. When truck routes have been designated, every motor vehicle licensed for five tons or more shall comply with the following:

1. Use of Established Routes. Every such motor vehicle 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 those streets within the City designated as truck routes and none other.

(Code of Iowa, Sec. 321.473)

1. US Highway 71
2. Washington Street from US Highway 71 to the City limits.
3. Kilworth Street from Washington Street to the City limits.
4. Edgerton Street from Washington Street to the City limits.
5. South Street from Edgerton Street to Westside Drive.
6. Westside Drive from South Street to the City limits.
7. Eastside Drive from Washington Street to the City limits.
8. Deliveries Off Truck Route. Any such motor vehicle, 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 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)

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

(Code of Iowa, Sec. 321.473)

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CHAPTER 67

PEDESTRIANS

|  |  |
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| 67.01 Walking in Street | 67.03 Pedestrian Crossing |
| 67.02 Hitchhiking | 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])

- NONE -

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CHAPTER 69

PARKING REGULATIONS

|  |  |
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| 69.01 Park Adjacent to Curb | 69.07 Persons with Disabilities Parking |
| 69.02 Parking on One-Way Streets | 69.08 No Parking Zones |
| 69.03 Angle Parking | 69.09 All Night Parking Prohibited |
| 69.04 Manner of Angle Parking | 69.10 Truck Parking Limited |
| 69.05 Parking for Certain Purposes Illegal | 69.11 Parking Limited to Ten Minutes |
| 69.06 Parking Prohibited | 69.12 Snow and Ice |

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. West Washington Street between N. Carthage Street and N. Kilworth Street

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 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])

1. Center Parkway. On the center parkway or dividing area of any divided street.

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

1. 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])

1. Sidewalks. On or across a sidewalk.

(Code of Iowa, Sec. 321.358[1])

1. Driveway. In front of a public or private driveway.

(Code of Iowa, Sec. 321.358[2])

1. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.

(Code of Iowa, Sec. 321.358[3])

1. Fire Hydrant. Within five feet of a fire hydrant.

(Code of Iowa, Sec. 321.358[4])

1. 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])

1. 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])

1. 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])

1. 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])

1. 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])

1. 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])

1. 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)

1. 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])

1. 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])

1. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.
2. 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.
3. Entrances to Garage or Driveway. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than 20 feet of the width of the roadway for the free movement of vehicular traffic.
4. Crosswalks at Intersections. Within 10 feet of the crosswalk at all intersections within the City.
5. Fire Escapes. In an alley under any fire escape at any time.

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])

1. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.
2. 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*.
3. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
4. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
5. 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.
6. 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. On the west side of Edgerton Street south of Washington Street.
2. On the west side of Carthage Street between Washington Street and School Street.
3. On the west side of Kilworth Street north of Washington Street.
4. On the west side of Fairview Street from its north end to Washington Street and from Depot Street to the south end.
5. On the east side of Fairview Street from Washington Street to Depot Street.
6. On the south side of Thielen Street.
7. On Washington Street east of Edgerton Street to the east City limits.
8. On the north side of South Street west of Edgerton Street.
9. On either side of Washington Street from lot four of Sturgeon’s Addition west to its intersection with U.S. Highway 71.
10. On the west side of East Side Drive between Washington Street and Hill Haven Street.
11. On the east side of Fairview Street commencing 90 feet south of the curb line of Church Street thence north to Thielen Street.
12. In any alley in the Business District or any other part of the City between one-half hour after sundown or one-half hour before sunrise.
13. On the east side of Jefferson Street from Main Street to South Street.
14. On the east side of Jefferson Street from Harrison Street to the north City limits.
15. On the south side of Harrison from North Jefferson Street to North Kilworth Street.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof between the hours of 2:00 a.m. and 5:00 a.m. of any day.

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

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

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner that will not interfere with other traffic.
2. Washington Street between Carthage and Edgerton Streets.
3. Carthage Street between blocks 3 and 4 and blocks 5 and 6.
4. Jefferson Street between blocks 2 and 3, and on the west side of Jefferson Street between blocks 6 and 7.
5. Kilworth Street between blocks 1 and 2.
6. Kilworth Street on the east side between blocks 7 and 8.
7. One Hour Parking. No such vehicle shall be left unattended or parked upon any of the following designated streets or alleys for a period of time longer than one hour out of each 24-hour period, commencing at 12:00 noon.
8. Livestock. No such vehicle shall be parked on any street, alley, or public grounds for the purposes of loading, unloading, or transferring from one vehicle to another any cattle, hogs, or other livestock, except in cases of a breakdown or like emergency.
9. Large Vehicle Limited Parking. Trucks licensed for five tons or more, semi-trailers, motor homes, boats, recreational vehicles or trailers, farm machinery, or other motor vehicle with trailer attached or detached in the street, alley, or public grounds in the City, except when engaging in the delivery or receipt of cargo or for community events, shall be limited to a parking limit of two hours.

69.11 PARKING LIMITED TO TEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than 10 minutes between the hours of 8:00 a.m. and 5:00 p.m. on any weekday upon the following designated streets:

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

1. Carthage Street, on the west side for a space of 70 feet from the north line of Washington Street.

69.12 SNOW AND ICE. It is unlawful to park any vehicle on the public streets in the City between the hours of 12:00 midnight and 6:00 a.m. during periods of snowfall or ice storms or within 24 hours after the termination of the snowfall or ice storm.

(Code of Iowa, 321.236[1])

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

|  |  |
| --- | --- |
| 70.01 Arrest or Citation | 70.04 Parking Violations: Vehicle Unattended |
| 70.02 Scheduled Violations | 70.05 Presumption in Reference to Illegal Parking |
| 70.03 Parking Violations: Alternate | 70.06 Impounding Vehicles |

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of $25.00 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] & 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])

1. 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])

1. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.
2. 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])

1. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

|  |  |
| --- | --- |
| 75.01 Purpose | 75.05 Operation of All-Terrain Vehicles |
| 75.02 Definitions | 75.06 Hours of Operation |
| 75.03 General Regulations | 75.07 Negligence |
| 75.04 Operation of Snowmobiles | 75.08 Accident Reports |

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

75.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “All-terrain vehicle” or “ATV” means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

1. “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)

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

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

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

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

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

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

1. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

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

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

(Code of Iowa, Sec. 321G.9[4a])

1. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:
2. 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])

1. 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])

1. 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])

1. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

1. 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.
2. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

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

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

1. 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])

1. 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.
2. 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.”
3. 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])

1. 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.
2. 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.
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.
5. 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.
6. Community Events Exception. The Mayor may grant exceptions and allow any all-terrain vehicles to be used on any City street by community and civic organizations for community events.

75.06 HOURS OF OPERATION. No ATV or snowmobile shall be operated in the City between the hours of 11:00 p.m. and 10:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

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

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

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

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

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CHAPTER 76

GOLF CARTS

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| --- | --- |
| 76.01 Purpose | 76.04 Equipment |
| 76.02 Permit Required | 76.05 Hours |
| 76.03 Prohibited Streets | 76.06 Parking |

76.01    PURPOSE. The purpose of this chapter is to permit the operation of golf carts on streets in the City as authorized by Section 321.247 of the *Code of Iowa*. This chapter applies whenever a golf cart is operated on any street or alley.

76.02 PERMIT REQUIRED. No golf cart shall be operated in the City unless a permit from the City Clerk has been issued to the owner of said golf cart. The permit received from the City must be with the golf cart whenever it is operated within the City. The permit is good for the calendar year within which it is issued and shall be renewed annually. The fee for said permit is $10.00 per year. Prior to any initial or renewal permit being issued, the golf cart shall be inspected by a person designated by the Mayor to make sure said golf cart complies with requirements of this chapter. There shall be no permits issued if in the previous year the applicant was cited and convicted of any violations of this chapter. Golf carts shall be operated only by persons possessing a valid driver’s license.

76.03    PROHIBITED STREETS. Golf carts may only be operated on streets within the City with speed limits of 25 miles per hour or less. Golf carts are prohibited from operating on Washington Street, except to cross said street.

76.04    EQUIPMENT. Golf carts operated upon City streets shall be equipped with a slow-moving vehicle sign and a bicycle safety flag at all times during operation and shall be equipped with adequate brakes.

76.05    HOURS. Golf carts must be operated during the following times:

1. From sunrise to sunset, from April 1 to October 1.
2. Golf carts are prohibited on the street during inclement weather.

76.06 PARKING. Two golf carts may use one parking space, provided they both are parked within the parking space lines.

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CHAPTER 80

ABANDONED VEHICLES

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| 80.01 Definitions | 80.06 Disposal of Abandoned Vehicles |
| 80.02 Authority to Take Possession of Abandoned Vehicles | 80.07 Disposal of Totally Inoperable Vehicles |
| 80.03 Notice by Mail | 80.08 Proceeds from Sales |
| 80.04 Notification in Newspaper | 80.09 Duties of Demolisher |
| 80.05 Fees for Impoundment |  |

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

(Code of Iowa, Sec. 321.89[1] & Sec. 321.90)

1. “Abandoned vehicle” means any of the following:
2. 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.
3. A vehicle that has remained illegally on public property for more than 24 hours.
4. 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.
5. 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.
6. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
7. 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.
8. “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.
9. “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.
10. “Police authority” means the Iowa State Patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority’s initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 20 days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties’ last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within 10 days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority’s initiative, the notice shall state that the private entity may claim a garage keeper’s lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the 10-day reclaiming period.

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

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

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

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

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

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

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

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

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

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CHAPTER 90

WATER SERVICE SYSTEM

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| 90.02 Superintendent’s Duties | 90.12 Responsibility for Water Service Pipe |
| 90.03 Mandatory Connections | 90.13 Failure to Maintain |
| 90.04 Abandoned Connections | 90.14 Curb Valve |
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| 90.07 Compliance with Plumbing Code | 90.17 Completion by the City |
| 90.08 Plumber Required | 90.18 Shutting Off Water Supply |
| 90.09 Excavations | 90.19 Operation of Curb Valve and Hydrants |
| 90.10 Tapping Mains |  |

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 and if the building is not furnished with pure and wholesome water from some other source.

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

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

90.06 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay $50.00 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. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from 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 & 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 & 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.

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CHAPTER 91

WATER METERS

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| 91.01 Purpose | 91.06 Meter Costs |
| 91.02 Water Use Metered | 91.07 Meter Repairs |
| 91.03 Fire Sprinkler Systems; Exception | 91.08 Right of Entry |
| 91.04 Location of Meters | 91.09 Meter Installation Fee |
| 91.05 Meter Setting |  |

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 City.

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 INSTALLATION FEE. The property owner shall pay an installation fee of $100.00 for each new installation of a water meter to a ¾-line. Such meter is to remain the property of the City.

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CHAPTER 92

WATER RATES

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| 92.01 Service Charges | 92.06 Lien for Nonpayment |
| 92.02 Rates For Service | 92.07 Lien Exemption |
| 92.03 Rates Outside the City | 92.08 Lien Notice |
| 92.04 Billing for Water Service | 92.09 Customer Deposits |
| 92.05 Service Discontinued | 92.10 Temporary Vacancy |

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 for each property serviced by the City:

(Code of Iowa, Sec. 384.84)

1. First 2,000 gallons - $51.94
2. All over 2,000 gallons - $5.59 per 1,000 gallons

The minimum charge shall be $51.94 per household or business building per month for water connections served by the City.

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 & 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the thirtieth day of the same month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of $5.00 shall be added to each delinquent bill. When the thirtieth falls on a Saturday or Sunday, the Clerk shall accept payment on the next day without penalty.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers (accounts not paid within 30 days after the end of any given period) shall be discontinued or disconnected in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested 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 or a payment plan has been arranged for customers whose delinquency is in excess of $100.00. Customers may request a payment plan to the Council for the delinquent amount.
4. Fees. A fee of $20.00 shall be charged 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. There shall be a $150.00 deposit required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Deposits of customers having established acceptable credit records for two years will be refunded. An occurrence or reoccurrence of a bad payment record may be the occasion for the Clerk to require a new or larger deposit for the continuation of services.

(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. There shall be a $20.00 fee collected for shutting the water off at the curb valve and no fee for restoring service. 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.

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CHAPTER 93

PRIVATE WELLS

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| 93.01 Private Well Restrictions | 93.03 Exemptions |
| 93.02 Definition |  |

**93.01 PRIVATE WELL RESTRICTIONS.** Because of groundwater contamination in the area, no person shall drill or construct a private water well after the effective date of the ordinance codified by this chapter within the City limits.

93.02 **DEFINITION.** For the purpose of this chapter, the term “well water” means both drinking and non-drinking water wells as defined in the Rules of Iowa Department of Natural Resources found in 567 Iowa Administrative Code 135.2 and any subsequent amendments thereto.

93.03 EXEMPTIONS.The following wells are exempt from the prohibition set forth in Section 93.01.

1. Monitoring Wells. Wells are used for soil and groundwater investigation.
2. Closed Loop Wells. Geothermal or heat pump wells employing closed loop construction which prevent human exposure to the water.

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CHAPTER 95

SANITARY SEWER SYSTEM

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| 95.01 Purpose | 95.06 Service Outside the City |
| 95.02 Definitions | 95.07 Right of Entry |
| 95.03 Superintendent | 95.08 Use of Easements |
| 95.04 Prohibited Acts | 95.09 Special Penalties |
| 95.05 Sewer Connection Required |  |

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)

1. 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.
2. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.
3. 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.
4. 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])

1. 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 100 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

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

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

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

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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| --- | --- |
| 96.01 Plumber Required | 96.05 Sewer Tap |
| 96.02 Excavations | 96.06 Inspection Required |
| 96.03 Connection Requirements | 96.07 Property Owner’s Responsibility |
| 96.04 Interceptors Required | 96.08 Abatement of Violations |

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

96.02 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.

96.03 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:
7. Recommended grade at one-fourth inch per foot.
8. Minimum grade of one-eighth inch per foot.
9. Minimum velocity of two feet per second with the sewer half full.
10. 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.
11. 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.
12. 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.
13. 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:
14. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
15. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
16. Ductile iron water pipe – A.W.W.A. C-151.
17. P.V.C. – SDR26 – A.S.T.M. D-3034.
18. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.
19. 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.
20. 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.
21. 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.

96.04 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.

96.05 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.

96.06 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.

96.07 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.

96.08 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])

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CHAPTER 97

USE OF PUBLIC SEWERS

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| 97.01 Storm Water | 97.05 Restricted Discharges; Powers of Superintendent |
| 97.02 Surface Waters Exception | 97.06 Special Facilities |
| 97.03 Prohibited Discharges | 97.07 Control Manholes |
| 97.04 Restricted Discharges | 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.
6. 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.
7. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner’s expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
11. 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).
12. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
13. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
14. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
15. 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.
16. 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.
17. 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

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| 98.01 When Prohibited | 98.05 Discharge Restrictions |
| 98.02 When Required | 98.06 Maintenance of System |
| 98.03 Compliance with Regulations | 98.07 Systems Abandoned |
| 98.04 Permit Required | 98.08 Disposal of Septage |

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

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

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CHAPTER 99

SEWER SERVICE CHARGES

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| 99.01 Sewer Service Charges Required | 99.04 Payment of Bills |
| 99.02 Special Rates | 99.05 Lien for Nonpayment |
| 99.03 Private Water Systems | 99.06 Special Agreements Permitted |

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of 50 percent of the bill for water and water service attributable to the customer for the property served.

(Code of Iowa, Sec. 384.84)

99.02 SPECIAL RATES. Where, in the judgment of the Mayor 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 Mayor and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer’s expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 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.

99.05 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)

99.06 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

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CHAPTER 105

SOLID WASTE CONTROL

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| 105.01 Purpose | 105.06 Separation of Yard Waste Required |
| 105.02 Definitions | 105.07 Littering Prohibited |
| 105.03 Sanitary Disposal Required | 105.08 Toxic and Hazardous Waste |
| 105.04 Health and Fire Hazard | 105.09 Waste Storage Containers |
| 105.05 Open Burning Restricted | 105.10 Prohibited Practices |

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.

(Code of Iowa, Sec. 455B.361[1])

1. “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.
2. “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)

1. “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])

1. “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])

1. “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.
2. “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)

1. “Residential premises” means a single-family dwelling and any multiple-family dwelling.
2. “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])

1. “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)

1. “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)

1. “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)

1. “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 in Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

1. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
2. 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.
3. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
4. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
5. 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.
6. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa.*
7. Post-use polymers or recoverable feedstocks that are any of the following:
8. Processed at a pyrolysis or gasification facility.
9. 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])

1. 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])

1. 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])

1. 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])

1. 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])

1. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

1. 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])

1. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

1. 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])

1. 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])

1. 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. 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:
2. 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.
3. 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.
4. 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.
5. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
6. 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.

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CHAPTER 106

COLLECTION OF SOLID WASTE

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| 106.01 Collection Service | 106.06 Right of Entry |
| 106.02 Collection Vehicles | 106.07 Contract Requirements |
| 106.03 Loading | 106.08 Collection Fees |
| 106.04 Frequency of Collection | 106.09 Lien for Nonpayment |
| 106.05 Bulky Rubbish |  |

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. 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 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. For each residence with alley or curb pickup, the fee for solid waste collection and disposal service, used or available, is $17.50 per month. In the event that alley or curb pickup for any residence is not feasible, the City Clerk is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

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| --- | --- |
| 110.01 Franchise Granted | 110.05 Indemnification |
| 110.02 Restrictions and Limitations | 110.06 Extensions |
| 110.03 Excavations | 110.07 Standards of Service |
| 110.04 Location of Installations | 110.08 Police Power |

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain, and operate in the City a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys, and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of the 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. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.[[5]](#footnote-5)†

110.02 RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

110.03 EXCAVATIONS. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing, or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to 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. In making excavations in any streets, avenues, alleys, and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

110.04 LOCATION OF INSTALLATIONS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement of, in, or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley, or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall consider selecting said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s cost of relocation, the City shall consider selecting the route that requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 INDEMNIFICATION. Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs, or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company’s negligence in construction, reconstruction, excavation, operation, or maintenance of the gas utilities authorized by this chapter, provided, however, that the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees, or agents.

110.06 EXTENSIONS. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.07 STANDARDS OF SERVICE. During the term of the franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

110.08 POLICE POWER. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

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CHAPTER 111

ELECTRIC FRANCHISE

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| --- | --- |
| 111.01 Franchise Granted | 111.05 Indemnification |
| 111.02 Restrictions and Limitations | 111.06 Standards of Service |
| 111.03 Excavations; Tree Trimming | 111.07 Police Power |
| 111.04 Location of Installations |  |

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 franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of electric energy and communications signals along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of the 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. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified herein.[[6]](#footnote-6)†

111.02 RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

111.03 EXCAVATIONS; TREE TRIMMING. 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 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. In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable. 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 of trees shall be done to current nationally accepted safety and utility industry standards.

111.04 LOCATION OF INSTALLATIONS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement of, in, or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley, or public improvements which alternative route would not cause the relocation of the Company installations, the City shall consider selecting said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s, the City shall consider selecting the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 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, caused or occasioned in whole or in part, by the Company’s negligence in construction, reconstruction, excavation, operation, or maintenance of the electric facilities authorized by this chapter, provided, however, that the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees, or agents.

111.06 STANDARDS OF SERVICE. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors. During the term of the franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

111.07 POLICE POWER. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

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CHAPTER 112

CABLE TELEVISION FRANCHISE

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| --- | --- |
| 112.01 Authority | 112.08 Payment to City |
| 112.02 Franchise Granted | 112.09 Franchise Termination |
| 112.03 Rights Conferred by Franchise | 112.10 Election Costs |
| 112.04 Installation of Cable System | 112.11 Local Office or Agent |
| 112.05 Relocation of Property | 112.12 Severability |
| 112.06 Rates and Charges | 112.13 Adopted in Conformity |
| 112.07 Indemnification | 112.14 Effective Date |

112.01 AUTHORITY. This ordinance is passed and approved by the City Council of the City of Exira, Iowa, and enacted pursuant to the laws of the State of Iowa.

112.02 FRANCHISE GRANTED. Pursuant to law, a non-exclusive franchise is hereby granted to Marne and Elk Horn Telephone Company an Iowa corporation (“Grantee”) to construct, own, and operate a cable television system in the City of Exira, Iowa. Said non-exclusive franchise is granted for a period of fifteen (15) years, and shall vest all the right, privileges, and immunities of a cable system with Grantee, however, said non-exclusive franchise shall be subject to and conditional upon all the terms, duties, and obligations found in the laws of the State of Iowa, rules and regulations of the Federal Communication Commission and of this Ordinance. [[7]](#footnote-7)†

112.03 RIGHTS CONFERRED BY FRANCHISE.

1. This Ordinance confers upon the Grantee the non-exclusive right, authority, power, and franchise to establish, construct, acquire, own, and maintain a cable television system within the City, and to render furnish, and sell such service to the inhabitants of the City and its environs and to use and occupy the streets and other public places within the corporate limits of the City as the same now exists or may hereafter exist for its cable television system, including the right to enter and construct, erect, locate, relocate, repair, and rebuild, in, on, under, along, over, and across the streets, alleys, avenues, parkways, lanes, and bridges, to make use of all land dedicated or acquired for public use at locations approved by the City, and other public places in the City, for all towers, poles, cables, amplifiers, conduits, and other facilities owned, leased, or otherwise used by Grantee for the furnishing or cable television service within the City during the continuance of the franchise hereby granted, and in accordance with the laws and regulations of the United States of America, the State of Iowa, and ordinances and regulations of the City of Exira, Iowa.
2. The poles used for the Grantee’s distribution system shall be those erected and maintained by anyone authorized to maintain poles in the streets or public ways when and where practicable. It is contemplated that reasonable standard pole attachment agreements will be entered into. Grantee is specifically granted the right to set its own poles in the event reasonable joint use is not possible or feasible. In any areas where electric and telephone utilities are now underground and in any new subdivisions or new additions where said utilities are underground, the Grantee will lay its cable underground.
3. The City reserves the right of reasonable regulation of the erection, construction, or installation of any facilities by the Grantee and to reasonably designate where such facilities are to be placed within the public ways and places.

112.04 INSTALLATION OF CABLE SYSTEM.

1. The installation of the cable system shall be in accordance with the requirements of the national Electric Safety Code of the American Insurance Assn., latest edition, in all applicable laws, ordinances, rules, and regulations of the FCC, the State of Iowa, and of the City affecting electrical installations and buildings, now in hereafter in effect.
2. The Grantee, subject to the rights of adjoining property owners, at its expense, shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and other public places of the City so as to prevent the branches of such trees from coming into contact with the wires and cables of Grantee, all trimming to be done under the supervision and direction of the City.
3. The Grantee shall at its expense protect, support, temporarily disconnect, relocate or remove any property of the Grantee located upon streets, rights-of-way, and easements of the City, when required by the City because of traffic conditions, public safety, street vacation street construction change or establishment of any other type of structure or improvements by the City. If the Grantee fails to do so, the City may cause the necessary work to be completed and Grantee shall pay the City the costs thereof within ten (10) days after the receipt of an itemized account of such cost.

112.05 RELOCATION OF PROPERTY. The Grantee, at the request of any person holding a permit issued by the City shall temporarily remove, raise, or lower its wires or cables to permit the moving of buildings or equipment. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the Grantee may require such payment in advance. The Grantee shall he given not less than forty-eight (48) hours advance notice to arrange for such temporary wire or cable change.

112.06 RATES AND CHARGES.

1. All rates and charges made by the Grantee for its services shall comply with the applicable rules of the Federal Communications Commission.
2. Grantee shall have the authority to promulgate such rules, regulations, terms, and conditions of its business as shall reasonably be necessary to enable the Grantee to exercise its rights and perform its services under this franchise and to assure an uninterrupted service to each and all of its customers.

112.07 INDEMNIFICATION. The Grantee agrees to hold and save said City harmless from any and all liability that may rise out of the construction, maintenance, operation, or use of Grantee’s system and works and the providing of such services and to provide and keep in force adequate liability insurance therefor.

112.08 PAYMENT TO CITY. In consideration of the rights, privileges, and franchise hereby granted, and as compensation to the City for the use of its public ways and places by the Grantee, and to properly regulate the activities of Grantee, the Grantee shall, on or before the last day of January and the last day of July of each year to which this franchise is effective, pay the City a sum equal to three percent of the gross subscriber revenues from basic cable television service within the then existing corporate limits of the City for the preceding six-month period ending on the last day of December, and the last day of June, respectively. The books of Grantee shall be open to inspection by the City at all reasonable times to verify the accuracy of the computation and correctness of the report which shall accompany payment. Grantee shall keep books and records pursuant to established practices using generally accepted auditing procedures.

112.09 FRANCHISE TERMINATION. The City may terminate the franchise and all rights therein granted in the event the Grantee or the successors or assigns thereof shall fail to comply with any of the terms, and conditions of the Ordinance. The City may exercise such right of termination by mailing notice thereof by registered mail to Grantee, unless within thirty (30) days after such mailing, full compliance with the terms and provisions of the Ordinance has been effected.

112.10 ELECTION COSTS. The Grantee will pay to the Commissioner of Elections a sum to cover the costs incurred in holding the election, including the publication cost, when presented with the bill for same.

112.11 LOCAL OFFICE OR AGENT. Grantee shall maintain a local office, agent or means whereby residents of the City may leave messages, complaints, or requests for service or repairs or adjustments at any time during normal business hours, all without any toll charges to any resident or customer.

112.12 SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The City declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases he declared illegal, invalid, or unconstitutional. The validity of any portion of this Ordinance shall not abate, reduce, or otherwise affect the consideration or other obligation required of Grantee by the franchise granted hereunder.

112.13 ADOPTED IN CONFORMITY. This Ordinance is passed and adopted in conformity with the laws of the State of Iowa, and in addition to other provisions herein set out, said Grantee shall file with the City and obtain approval thereof of a proper map showing and describing the exact location or proposed location all its facilities within the City’s streets, alleys, and public ways, and secure from the proper City official approval for the location of, and erection of either above or below ground facilities go as not to interfere with existing public utility franchises excluding here from the necessity of scouring prior approval of the City if and when said Grantee obtains pole attachment with existing public utilities for the joint use of poles that may be now existing or may be hereafter erected by such public utility franchise other than by this Ordinance.

112.14 EFFECTIVE DATE. This Ordinance shall take effect after its approval by the electors of the City of Exira, Iowa, at a City Election at which it is submitted for their approval. Passed and approved by the City Council, the 11th day of September, 1995.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

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| 120.01 License or Permit Required | 120.04 Action by Council |
| 120.02 General Prohibition | 120.05 Prohibited Sales and Acts |
| 120.03 Investigation | 120.06 Amusement Devices |

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a liquor license or retail wine or beer permit 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])

1. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

(Code of Iowa, Sec. 123.49[2b] & 123.150)

1. 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])

1. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

1. 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])

1. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

1. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

1. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

1. 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])

1. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

1. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

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| 121.01 Definitions | 121.06 Refunds |
| 121.02 Permit Required | 121.07 Persons Under Legal Age |
| 121.03 Application | 121.08 Self-Service Sales Prohibited |
| 121.04 Fees | 121.09 Permit Revocation |
| 121.05 Issuance and Expiration |  |

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)

1. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

|  |  |
| --- | --- |
| **FOR PERMITS GRANTED DURING:** | **FEE:** |
| July, August or September | $ 75.00 |
| October, November or December | $ 56.25 |
| January, February or March | $ 37.50 |
| April, May or June | $ 18.75 |

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of $300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 or the retailer’s permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer’s permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer’s permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer’s permit shall be revoked.

The Clerk shall give 10 days’ written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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| --- | --- |
| 122.01 Purpose | 122.09 Time Restriction |
| 122.02 Definitions | 122.10 Revocation of Permit |
| 122.03 Permit Required | 122.11 Hearing |
| 122.04 Application for Permit | 122.12 Record and Determination |
| 122.05 Bonds Required | 122.13 Appeal |
| 122.06 Permit Issued | 122.14 Effect of Revocation |
| 122.07 Display of Permit | 122.15 Permit Exemptions |
| 122.08 Permit Not Transferable | 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 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 PERMIT REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a permit as herein provided is in violation of this chapter.

122.04 APPLICATION FOR PERMIT. An application in writing shall be filed with the Clerk for a permit 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 permit. An application fee of $5.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 BONDS REQUIRED.

1. Before a permit under this chapter is issued to a transient merchant, an applicant shall provide to the Chief of Police evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.
2. Before a permit under this chapter is issued, each person subject to this chapter shall post a bond with the Clerk, issued by a surety company authorized to insure the fidelity of others in Iowa, in the amount of $1,000.00, to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (i) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter; and (ii) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant’s peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

122.06 PERMIT ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter and the facts stated therein are found to be correct, a permit shall be issued immediately.

122.07 DISPLAY OF PERMIT. Each peddler and solicitor shall keep such permit in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the permit as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s permit in the merchant’s place of business.

122.08 PERMIT NOT TRANSFERABLE. Permits 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.

122.09 TIME RESTRICTION. All peddler and solicitor permits shall provide that said permits are in force and effect only between the hours of 8:00 a.m. and 4:00 p.m.

122.10 REVOCATION OF PERMIT. After written notice and an opportunity for a hearing, the Clerk may revoke any permit issued under this chapter for the following reasons:

1. Fraudulent Statements. The permit holder has made fraudulent statements in the application for the permit or in the conduct of the business.
2. Violation of Law. The permit holder has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The permit holder has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The permit holder shall be served with written notice containing particulars of any complaint against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.11 HEARING. The Clerk shall conduct a hearing at which the permit holder and any complainants shall be present to determine the truth of the acts alleged in the complaint and notice. Should the permit holder, or authorized representative, fail to appear without good cause, the Clerk may use the failure to appeal as evidence in support of revocation of the permit.

122.12 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a permit only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.13 APPEAL. If the Clerk revokes or refuses to issue a permit, the Clerk shall make a part of the record the reasons for such revocation or refusal. The permit holder or applicant shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.14 EFFECT OF REVOCATION. Revocation of any permit shall bar the permit holder from being eligible for any permit under this chapter for a period of at least one year from the date of the revocation.

122.15 PERMIT 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 Exira-Elk Horn School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.16 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 122.03 and 122.04. 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 permit containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.13 of this chapter.

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CHAPTER 135

STREET USE AND MAINTENANCE

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| --- | --- |
| 135.01 Removal of Warning Devices | 135.08 Burning Prohibited |
| 135.02 Obstructing or Defacing | 135.09 Excavations |
| 135.03 Placing Debris On | 135.10 Property Owner’s Responsibility for Maintenance |
| 135.04 Playing In | 135.11 Failure to Maintain |
| 135.05 Traveling on Barricaded Street or Alley | 135.12 Dumping of Snow |
| 135.06 Use for Business Purposes | 135.13 Driveway Culverts |
| 135.07 Washing Vehicles |  |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
2. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
3. A statement of the purpose, for whom and by whom the excavation is to be made;
4. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
5. Date of commencement of the work and estimated completion date.
6. 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.
7. 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.
8. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
9. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.
10. Property Damage - $50,000.00 per accident.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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*.
16. Permit Issued. Upon approval of the application and filing of insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

135.10 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards.  In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes.  The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.  Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris.  The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[[8]](#footnote-8)†

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner’s expense, install any culvert deemed necessary under any driveway or any other access to the owner’s property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

|  |  |
| --- | --- |
| 136.01 Purpose | 136.10 Failure to Repair or Barricade |
| 136.02 Definitions | 136.11 Interference with Sidewalk Improvements |
| 136.03 Removal of Snow, Ice, and Accumulations | 136.12 Encroaching Steps |
| 136.04 Property Owner’s Responsibility for Maintenance | 136.13 Openings and Enclosures |
| 136.05 City May Order Repairs | 136.14 Fires or Fuel on Sidewalks |
| 136.06 Sidewalk Construction Ordered | 136.15 Defacing |
| 136.07 Permit Required | 136.16 Debris on Sidewalks |
| 136.08 Sidewalk Standards | 136.17 Merchandise Display |
| 136.09 Barricades and Warning Lights | 136.18 Sales Stands |

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

136.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.  The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks.  If a property owner does not remove snow, ice, or accumulations within 24 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.  The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

(Code of Iowa, Sec. 364.12[2b & e])

136.04 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE.  The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d & e])

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
6. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.
7. 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.
8. Driveway areas shall be not less than six inches in thickness.
9. 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.
10. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
11. 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.
12. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
13. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
14. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner’s contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.14 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.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

|  |  |
| --- | --- |
| 137.01 Power to Vacate | 137.05 Disposal of Vacated Streets or Alleys |
| 137.02 Planning and Zoning Commission | 137.06 Disposal by Gift Limited |
| 137.03 Notice of Vacation Hearing | 137.07 Vacated Streets and Alleys |
| 137.04 Findings Required |  |

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

137.07 VACATED STREETS AND ALLEYS. The following streets and alleyways are hereby vacated:

1. The east 140 feet of that part of Fifth Street which is located between Block 10 and Block 15 in West Exira, an Addition to the City of Exira, Iowa, the same being a dead end street, at the east end thereof.
2. An alley 16 feet wide through Blocks 3 and 4 of Houston’s Addition to the City of Exira from a point 9 feet east of the west lines of said Block 3 to the west line of said Block 4.
3. A street 66 feet wide extending east and west between Blocks 4 and 5 of Houston’s Addition to Exira from the east line of said Blocks 4 and 5 to the west line of said Blocks.
4. The alley extending east and west through Block 27 in West Exira, an addition to the City of Exira, Iowa.
5. The west one-half of that portion of Water Street in the City of Exira, Iowa, located between blocks 14 and 19 in the City.
6. The alley between Lots One, Two, Three, and Four, Subdivision of Lot Twenty-one, of Lot Ten, Section 4, Township 78 North, Range 35 West of the Fifth P.M., Audubon County, Iowa, and known as Lots One, Two, Three, and Four, of Sturgeon’s Addition to the City of Exira, Audubon County, Iowa, and Lots Seven, and Eight, in Block B, in Struble’s Addition to the City of Exira, Audubon County, Iowa.
7. All of the alley between Block 21 and Block 30 in West Exira, an addition to the City of Exira, Audubon County, Iowa.
8. Part of Depot Street west of and adjoining the west side of Block 30 that extends from the centerline of vacated 3rd Street to a line that runs parallel with and 20 feet south of the south line of said Block 30, all in West Exira, an addition to the City of Exira, Audubon County, Iowa.

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| **EDITOR’S NOTE** | | | |
| The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect. | | | |
| **ORDINANCE NO.** | **ADOPTED** | **ORDINANCE NO.** | **ADOPTED** |
| 233 | November 12, 2018 |  |  |
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CHAPTER 138

STREET GRADES

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| 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.

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| **EDITOR’S NOTE** | | | |
| The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect. | | | |
| **ORDINANCE NO.** | **ADOPTED** | **ORDINANCE NO.** | **ADOPTED** |
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CHAPTER 145

DANGEROUS BUILDINGS

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| 145.01 Enforcement Officer | 145.05 Conduct of Hearing |
| 145.02 General Definition of Unsafe | 145.06 Posting of Signs |
| 145.03 Unsafe Building | 145.07 Right to Demolish; Municipal Infraction |
| 145.04 Notice to Owner | 145.08 Costs |

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner’s Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[[9]](#footnote-9)†

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 EXIRA, 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])

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

|  |  |
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| 146.01 Definitions | 146.03 Foundation Requirements |
| 146.02 Conversion to Real Property |  |

146.01 DEFINITIONS. For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

**146.03 FOUNDATION REQUIREMENTS.** A mobile home or manufactured home located outside of a manufactured home community 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 & 414.28)

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CHAPTER 150

TREES

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| 150.01 Definition | 150.04 Trimming Trees to Be Supervised |
| 150.02 Planting Restrictions | 150.05 Disease Control |
| 150.03 Duty to Trim Trees | 150.06 Inspection and Removal |

150.01 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.

150.02 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.

150.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

150.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 150.03, 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.

150.05 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.

150.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 160

FLOOD PLAIN MANAGEMENT

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| 160.01 Definitions | 160.06 Standards for Flood Plain (Overlay) District |
| 160.02 Statutory Authority, Findings of Fact and Purpose | 160.07 Establishment of Variance Procedures |
| 160.03 General Provisions | 160.08 Nonconforming Uses |
| 160.04 Administration | 160.09 Penalties for Violation |
| 160.05 Establishment of Flood Plain (Overlay) District | 160.10 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:
7. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.06(4)(A) of this chapter; and
8. 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
9. 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
10. The enclosed area is not a basement, as defined in this section.
11. “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.
12. “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.
13. “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).
14. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
15. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
16. “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.
17. “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.
18. “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.
19. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
20. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
21. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.
22. “Flood proofing” 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.
23. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
24. “Floodway fringe” means those portions of the special flood hazard area outside the floodway.
25. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
26. “Historic structure” means any structure that is:
27. 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;
28. 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;
29. 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
30. 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.
31. “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.
32. “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.
33. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than $500.00.
34. “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 flood plain management regulations adopted by the community.
35. “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 flood plain management regulations adopted by the community.
36. “Recreational vehicle” means a vehicle which is:
37. Built on a single chassis;
38. Four hundred (400) square feet or less when measured at the largest horizontal projection;
39. Designed to be self-propelled or permanently towable by a light duty truck; and
40. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
41. “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:
42. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
43. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
44. Basement sealing;
45. Repairing or replacing damaged or broken window panes;
46. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
47. “Special flood hazard area” (SFHA) means the land within a community subject to the base flood. This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
48. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
49. “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.
50. “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. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 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.
51. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the first improvement of the structure; 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.

*[NOTE: An alternative to exempting substantially improved/damaged historic structures from the elevation requirements of the ordinance by definition would be to handle them individually through the variance process. This option provides the community an opportunity to require that all reasonable measures are used to reduce the structure’s flood damage potential (e.g., by relocating utilities above the base flood elevation, using flood resistant materials where practicable, etc.), provided those measures do not preclude the structure’s designation as a “historic structure.” If this alternative is preferred, the last sentence of the previous paragraph (referring to “historic structures” should be deleted].*

1. 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.
2. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.
3. “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has, in Chapter 414 of the *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact.
3. 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.
4. 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 flood plain causing increases in flood heights and velocities.
5. 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:
6. 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.
7. 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.
8. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
9. 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 within the jurisdiction of the City which are located within the boundaries of the Flood Plain (Overlay) District as established in Section 160.05.
2. Rules for Interpretation of Flood Plain (Overlay) District. The boundaries of the Flood Plain (Overlay) District 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 Planning and Zoning Board 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 Planning and Zoning Board 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 Flood Plain (Overlay) District 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 (Local Official).
2. The City Clerk is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
3. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review flood plain 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 flood plain construction.

(3) Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community’s participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community’s boundaries.

(8) Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Planning and Zoning Board of potential conflict.

(9) Maintain the accuracy of the community’s Flood Insurance Rate Maps when:

a. Development placed within the Floodway (Overlay) District results in either of the following: (i) an increase in the Base Flood Elevations; or (ii) 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 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. Flood Plain Development Permit.
2. Permit Required. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
3. 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 buildings and building additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of buildings or of the level to which a building 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.

1. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.
2. Construction and Use to Be as Provided in Application and Plans. Flood Plain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 ESTABLISHMENT OF FLOOD PLAIN (OVERLAY) DISTRICT. The areas within the jurisdiction of the City having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Audubon County and Incorporated Areas, City of Exira, Panels 19009C0232D, 0234D, 0251D, 0253D, dated May 2, 2016.

160.06 STANDARDS FOR FLOOD PLAIN (OVERLAY) DISTRICT. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided on the Flood Insurance Rate Map, 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 determination.

1. All Development. All development within the Flood Plain (Overlay) District shall:
2. Be consistent with the need to minimize flood damage.
3. Use construction methods and practices that will minimize flood damage.
4. Use construction materials and utility equipment that are resistant to flood damage.
5. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
6. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevations. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevations and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.
7. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.
8. All New and Substantially Improved Structures.
9. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings, with positioning on at least two walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. *[Note: The NFIP’s Lowest Floor Guide requires that openings be located on “at least two walls.” While FEMA does not require the ordinance to contain this language, including it might help to ensure that the property owner will receive a lower flood insurance premium.])*

(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. Where the distance between the floor and ceiling of the fully enclosed area below the lowest floor is five feet or more, the applicant shall be required to sign and record with the Audubon County Record Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in this paragraph. *[Note: Community may determine the height of the lower-enclosed area at which to require the applicant to sign a Non-Conversion Agreement.]*

1. 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.
2. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities elevated or flood proofed to a minimum of one foot above the base flood elevation.
3. Factory-Built Homes:
4. 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 100-year flood level.
5. 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.
7. 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.
8. 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 100-year flood elevation.
9. 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 100-year flood elevation.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.
15. Accessory Structures to Residential Uses.
16. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.

(2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

(6) The structure’s walls shall include openings that satisfy the provisions of subsection 4(A) of this section.

Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

1. Recreational Vehicles.
2. 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.

1. 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.
2. 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.
3. 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 flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are 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.

160.07 ESTABLISHMENT OF VARIANCE PROCEDURES.

1. The 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.
2. 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.
3. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and (ii) such construction increases risks to life and property.
5. 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:
6. The danger to life and property due to increased flood heights or velocities caused by encroachments.
7. The danger that materials may be swept on to other land or downstream to the injury of others.
8. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
9. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
10. The importance of the services provided by the proposed facility to the City.
11. The requirements of the facility for a flood plain location.
12. The availability of alternative locations not subject to flooding for the proposed use.
13. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
14. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
15. The safety of access to the property in times of flood for ordinary and emergency vehicles.
16. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
17. 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.
18. Such other factors which are relevant to the purpose of this chapter.
19. 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:
20. Modification of waste disposal and water supply facilities.
21. Limitation of periods of use and operation.
22. Imposition of operational controls, sureties, and deed restrictions.
23. 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.
24. Floodproofing measures.

160.08 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:
2. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.
3. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
4. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.09 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.

160.10 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 – GENERAL PROVISIONS

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| 165.03 Definitions | 165.09 Street Frontage |
| 165.04 Districts Established | 165.10 Lot Area Requirements |
| 165.05 Zoning Map | 165.11 Number of Uses on One Lot |
| 165.06 Application of District Regulations |  |

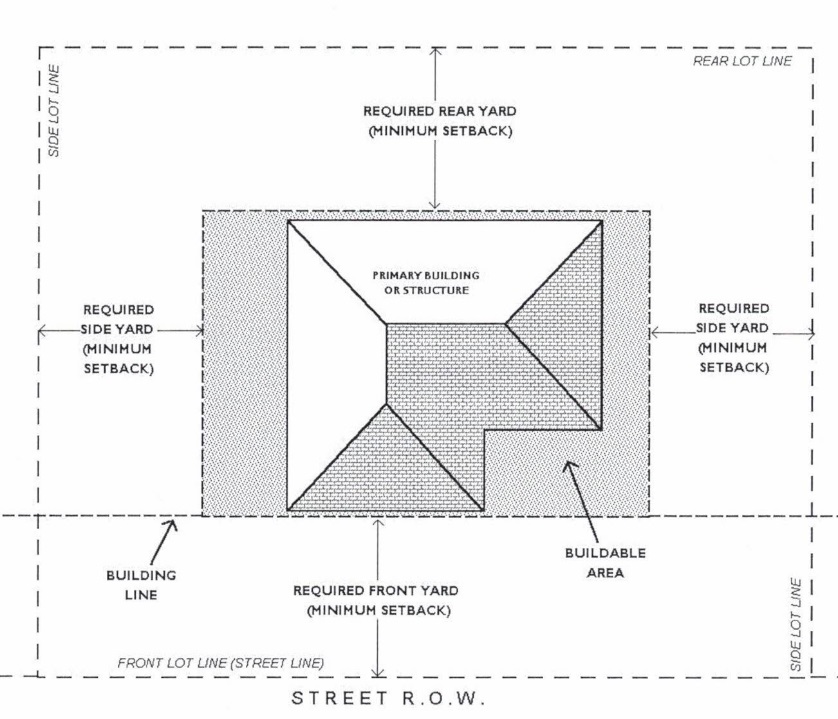
165.01 SHORT TITLE. Chapters 165 through 168 of this Code of Ordinances shall be known and may be cited as the City of Exira, Iowa, Zoning Ordinance and are collectively referred to herein as the Zoning Ordinance.

165.02 PURPOSE. The purpose of the Zoning Ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and promote the health, safety, and general welfare in the City.

165.03 DEFINITIONS. For the purpose of interpreting this Zoning Ordinance, certain items, terms, and words are hereby defined. The words “used” and “occupied” include the words “intended, designed, or arranged to be used or occupied.” The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as the individual. The words “application” and “request” may be used interchangeably.

1. “Abutting” means having property or district lines in common.
2. “Access” means a way of approaching or entering a property from a public street.
3. “Accessory building or use” means a separate subordinate building, the use of which is incidental to that of the principal building or to the principal use of the premises, and is located on the same lot as the main building. An accessory use is one that is incidental to the main use of the premises. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
4. “Agriculture” means the production, keeping, or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including (but not limited to) forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, mules, or goats, or any mutations or hybrids thereof including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; or lands devoted to a soil conservation or forestry management program.
5. “Alterations” means any change in any building, including a change in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders, that will: (i) upon completion, affect a change in the use thereof; or (ii) have the effect of enlarging or reducing the floor area thereof.
6. “Animal hospital or clinic” means an establishment where animals are admitted principally for examination, treatment, or care by a doctor of veterinary medicine.
7. “Alley” means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.
8. “Automobile repair” (major) means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; collision service, including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.
9. “Automobile repair” (minor) means minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks, but not including any operation specified under the definition of automobile repair (major).
10. “Automobile wrecking yard” means an area outside of an enclosed building where motor vehicles are disassembled, dismantled, or junked, or where vehicles not in operable condition or used parts of motor vehicles are stored.
11. “Basement” means that portion of a building at least partly underground but having at least 50 percent or one-half of the height or one or more walls below the grade.
12. “Billboard” means a sign which has a flat surface sign space upon which advertising may be posted, painted, or affixed, and which is primarily designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists.
13. “Bed and breakfast house” means a house, or portion thereof, where short-term lodging, rooms, and meals are provided.
14. “Board” means the Board of Adjustment of the City.
15. “Boarding, lodging, or rooming house” means a building (other than a hotel) where lodging is provided for compensation for four or more persons.
16. “Buildable area” means the area of a lot remaining after the minimum yard and open space requirements have been met, on which permitted buildings or other structures can be erected. (See Diagram 165.03A for illustration.)
17. “Building” means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards and not including structures, or vehicles originally designed for transportation purposes.
18. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the roof adjacent to the street wall in the case of a flat roof, to the deck line of a ridge for gable, hip, and gambrel roofs.
19. “Building line” means a line other than a lot line, used to regulate the location of a building or structure in relationship to the abutting street or streets. This line is generally the same as a minimum setback line. (See Diagram 165.03A for illustration.)
20. “Business” means an engagement in the purchase, sale, barter, or exchange of goods, wares, merchandise or service or the maintenance or operation of offices or recreational or amusement enterprises.
21. “Commission” means the Planning and Zoning Commission of the City.

**DIAGRAM 165.03A**

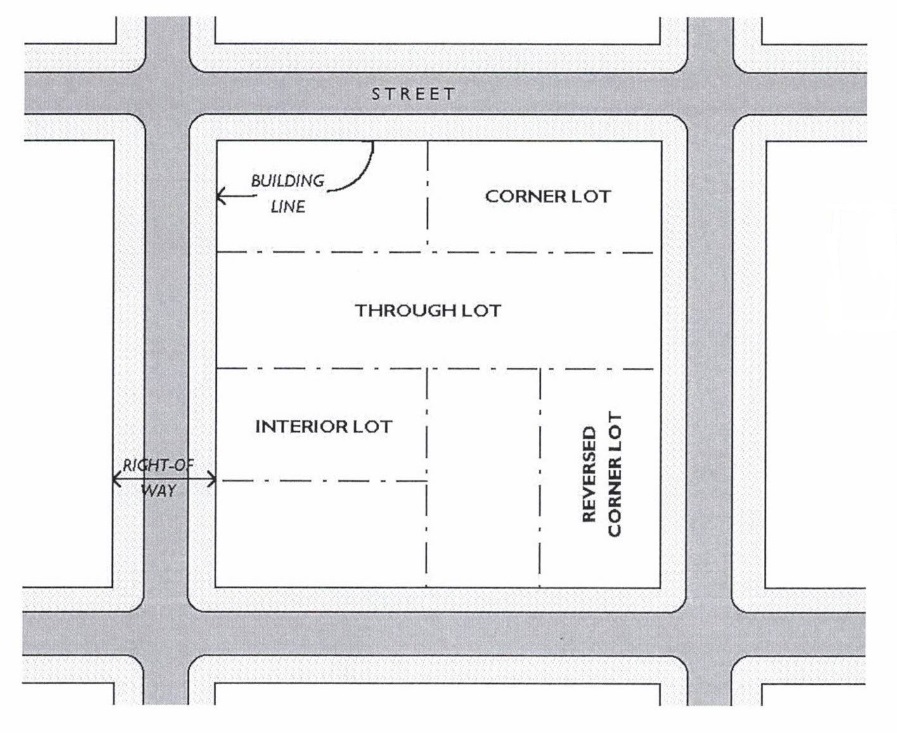


1. “Common wall” means an unbroken wall shared by two or more separate buildings.
2. “Condominium” means a residential or commercial building consisting of multiple units, each under individual ownership of the space contained within each unit, and co-ownership of the remaining real property by the individual owners as tenants in common, but subject to certain joint agreements and regulations.
3. “District” means the area defined as a zoning district within which certain zoning provisions apply under this Zoning Ordinance.
4. “Dwelling” means any building or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
5. “Dwelling, single family” means a detached building designed for or occupied exclusively by and for residence purposes by one family and having no party wall in common with an adjacent house or houses.
6. “Dwelling, multiple-family” means a building or portion thereof designed for or occupied exclusively by and for residence purposes by two or more families.
7. “Essential services” means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.
8. “Exception” or “special exception” means a modification of the general provisions of this Zoning Ordinance under particular given circumstances after it is determined by the Board of Adjustment that strict compliance with the Zoning Ordinance would cause undue hardship on the applicant and that said modification will not infringe upon the intent of the Zoning Ordinance.
9. “Family” means one or more persons related by blood, marriage, adoption, or legal guardianship occupying a single dwelling unit. A family may include four, but not more than four persons not related by blood, marriage, or adoption but further provided that domestic employees employed on the premises may be housed on the premises without being counted as a family or families.
10. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, “family home” does not mean an individual foster care family home licensed under Chapter 237 of the *Code of Iowa*.
11. “Farming” means the growth of agricultural products. Farming shall not include the commercial operation of stockyards, slaughterhouses, or feed lots.
12. “Flood area” means any land or portion of land, adjacent to a stream, river, or other natural drainage channels or basins, that is subject to overflow, inundation, or flood hazard from the unusual and rapid accumulation or runoff of surface water from any source.
13. “Floor area” means the sum of the gross horizontal areas of the floors of a building, including interior balconies and mezzanines, but excluding exterior balconies.
14. “Garage” means a building or portion thereof in which a motor vehicle containing gasoline, distillate, or other volatile flammable liquid in its tank is stored, repaired, or kept.
15. “Garage, private” means a building or part thereof accessory to the main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
16. “Garage, public or storage” means a building or part thereof other than a private garage used for the care, storage, and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire, or sale.
17. “Grade” means the average elevation of the finished ground at the exterior walls of the main building or structure.
18. “Health care facility” means any residential care facility, intermediate care facility, or skilled nursing facility.
19. “Residential care facility” means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board personal assistance, and other essential daily living activities to three or more individuals, not related to the administrator or owner, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.
20. “Intermediate care facility” means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physical, to three or more individuals, not related to the administrator or owner thereof, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or licensed practical nurse.
21. “Home occupation” means an occupation or activity carried on by the immediate members of the family residing in the dwelling.
22. “Hospital” means any institution, building, or other facility or place established for the maintenance, observation, medical, and dental care and supervision and skilled nursing care of persons afflicted with or suffering from sickness, disease or injury or for the convalescent or chronically ill persons.
23. “Hotel” means a building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms, and generally no provision made for cooking in any individual room, and entrance is made through a common lobby or office.
24. “Junk yard” means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, or packed, disassembled or handled, including places or yards for storage of salvaged house wrecking and 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 as part of manufacturing operations.
25. “Kennel” (commercial) means an establishment in which dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained, or sold.
26. “Lot,” for the purposes of this Zoning Ordinance, is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
27. A single lot of record.
28. A portion of a lot of record.
29. A combination of complete lots of record, or complete lots of record and portions of lots of record, or portions of lots of record.
30. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Zoning Ordinance or any other subdivision regulations of the City.

The word “lot” includes the words “plot or parcel.”

1. “Lot frontage” means the portion of a lot nearest the adjacent street. For corner lots, all sides adjacent to streets shall be considered frontage.
2. “Lot line” means the legally defined property lines bounding a lot.
3. “Lot line, front” means that line separating the lot from adjacent streets.
4. “Lot line, rear” means the lot line farthest from or opposite the front lot line. In the case of a corner lot, the rear lot line shall be considered the lot line opposite the adjacent street that is designated as the front street (the street upon which the property’s address is assigned).
5. “Lot line, side” means a lot line other than the front or rear lot lines.
6. “Lot measurements” are defined as:
7. Depth of a lot shall be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
8. The width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line, provided, however, that width between side lot lines at there foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where 80 percent requirements shall not apply.
9. “Lot of record” means a lot which is part of a Subdivision recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
10. “Lot types” are defined as follows: (See Diagram 165.03B for illustration.)
11. “Corner lot” means a lot located at the intersection of two or more streets.
12. “Interior lot” means a lot other than a corner lot with only one frontage on a street other than an alley.
13. “Through lot” means a lot other than a corner lot with frontage on two parallel or non-intersecting streets.
14. “Reversed corner lot” means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
15. “Manufactured home” means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. § 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A “mobile home” as defined in Section 435.1.1 of the *Code of Iowa* is not a manufactured home, unless it has been converted to real property as defined in Section 435.26 of the *Code of Iowa*, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

**DIAGRAM 165.03B**



1. “Manufacturing” means the use of land, buildings, or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale of any goods, substance, article, thing, or service. Processing on farms is not classified as manufacturing if the raw material is grown on the farm.
2. “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 shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.
3. “Motel” (also motor hotel, motor court, motor lodge, or tourist court) means a building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guests’ vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.
4. “Nonconforming use” (also nonconformities) means lots, structures, uses of land and structures, or characteristics of uses, that are prohibited under the terms of the Zoning Ordinance but were lawful at the date of its enactment.
5. “Nursing home” or “rest home” means a home for the aged, infirmed, invalid, convalescent, or physically disabled in which three or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.
6. “Parking space” means an area of not less than 180 square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.
7. “Permitted use” means a use by right that is specifically authorized in a particular zoning district.
8. “Principal use” means the main use of land or structures as distinguished from an accessory use.
9. “Planned development” means a project located on a single tract, controlled by one owner, corporation or agency, including usable open space for the mutual benefit of the entire tract, designed to provide variety and diversity through the variance or normal zoning and subdivision standards, so that maximum long range benefit can be gained and unique features of the site preserved or enhanced.
10. “Projections” (into yards) means parts of buildings such as architectural features that extend beyond the building’s exterior wall.
11. “Recreational facility” means a place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities. Examples include basketball courts, ball fields, tennis courts, trails, etc. Private recreational facilities are those that are located on private property for the exclusive use of the property owners. Public recreational facilities are those that are located on public property and available for use by the public.
12. “Retaining wall” means any structure designed and constructed to resist the lateral pressure of soil when there is a desired change in ground elevation.
13. “Service station” means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefor, or where battery, tire, or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.
14. “Setback” means the minimum required horizontal distance measured at right angles to the boundary of the lot or parcel between the farthest protruding point of the structure or building closest to the boundary.
15. “Sign” means any object or device, or part thereof, situated outdoors or indoor, which is used to advertise, identify, display, direct, or attract attention to any object, person, institution, organization, business product, service, event, or location by any means including words, letters, figures, designs, symbols, fixtures, color, motion, illumination, or projected images. A sign includes any billboard but does not include the following: flags of nations, states, and cities, or merchandise, picture or models of products or services incorporated with an inside window display; or works of art, which in no way identify a product or service.
16. “Special use” means a reasonable use that will not impair the public health, safety, or welfare in a zone but does not conform to the character of the zone in which it is located. Certain restrictions on the location, aesthetics, size, and other performance standards may be imposed. Said special use runs with the owner and not with the land.
17. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it. A half-story is a space under a sloping roof that has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.
18. “Street” means the entire width between the boundary lines of a public right-of-way which provides for public means of access to abutting property or for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms road, highway, lane, place, avenue, and other similar designations.
19. “Street line” means the dividing line between a lot and a street.
20. “Structure” means anything constructed or erected that requires location on the ground or attached to something having location on the ground, but not including pavements, curbs, walks, or open-air surfaced areas. For the purposes of this Zoning Ordinance, fences and signs are considered structures.
21. “Subdivision” means the division of land into two or more lots of other divisions of land for the purpose, whether immediate or future, or transfer of ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or the re-subdivision of land previously divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.
22. “Temporary use” means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period or completion of an activity for which the temporary use is incidental.
23. “Tent” means a portable or temporary cover of shelter with or without side panels, which is supported by poles and is made of canvas, plastic, or similar materials, that is not permanently affixed to the site and is not considered a structure.
24. “Use” means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.
25. “Variance” means a modification of the special regulations of this Zoning Ordinance granted by resolution of the Board of Adjustment in accordance with the provisions and terms of this Zoning Ordinance, which grants a property owner relief from certain provisions of the Zoning Ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property (which condition is not of the owner’s making), compliance would result in particular hardship on the owner, as distinguished from a mere inconvenience or desire to make more money.
26. “Yard” means the unoccupied or unobstructed open space on a lot with a main building.
27. “Yard, front” means the yard extending the full width of the lot between a building and the front lot/property line, unoccupied and unobstructed from the ground upward. In the case of a corner lot, both yards adjoining the street shall be considered front yards. For the purposes of designating a rear lot (i.e., opposite the front yard, as described below), the main front yard shall be along the street upon which the property’s address is assigned.
28. “Yard, rear” means an open space extending the full width of a lot between a building and the rear lot/property line, unoccupied and unobstructed from the ground upward, except as hereinafter specified. On corner lots, the rear yard shall be considered opposite the adjacent street that is designated as the front street (the street upon which the property’s address is assigned).
29. “Yard, side” means an open space extending from the front yard to the rear yard between a building and the side lot/property line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

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165.04 DISTRICTS ESTABLISHED.The City is hereby divided into the following zoning districts:

**A-1** Agriculture District

**R-1** Single-Family Residence District

**R-2** One- and Two-Family Residence District

**R-3** Multiple-Family Residence District

**RC-1** Residential Commercial District

**C-1** Light Commercial District

**C-2** Service Commercial District

**M-1** Light Industrial District

**M-2** Heavy Industrial District

165.05 ZONING MAP.

1. Provision for Official Zoning Map. The location and boundaries of the districts are hereby established as shown on the Official Zoning Map of the City. Said Map, including all designations, notations, references, amendments and other information shown thereon shall be and are hereby made a part of this Zoning Ordinance by reference. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: “This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the City of Exira, Iowa,” together with the date of adoption. The Official Zoning Map shall remain on file in the Office of the City Clerk.
2. Changes or Amendments to Official Zoning Map. Changes or amendments in district boundaries shall be made by an ordinance amending the Zoning Ordinance, and shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council with an entry notation on the Official Zoning Map identifying the change (including the changes by ordinance number and date of adoption). The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by the legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning Map together with amending ordinances shall be the final authority as to the current zoning status of the land and water areas, buildings, and structures in the City. *(See EDITOR’S NOTE at the end of this chapter for ordinances amending the zoning map.)*
3. Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (DATE) as part of the Zoning Ordinance of the City of Exira, Iowa”. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendments.
4. Interpretation of District Boundaries. The following rules shall aid in the interpretation of the Official Zoning Map:
5. Boundaries appearing to follow the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
6. Boundaries appearing to follow platted lot lines shall be construed as following such lines.
7. Boundaries appearing to follow City limits shall be construed as following such City limits.
8. Boundaries appearing to follow railroad lines shall be construed to be midway between the main tracks.
9. Boundaries appearing to follow shorelines shall be construed to follow such shorelines, and in the event of a change in the shoreline, the boundary shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
10. Boundaries appearing as parallel to or extensions of features indicated in Subsections A-C above shall be so construed. The scale shown on the map shall determine distances not specifically indicated on the Official Zoning Map.
11. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A-F above, the Board of Adjustment shall interpret the district boundaries.
12. Where a district boundary line divides a lot that was in single ownership at the time of passage of this Zoning Ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
13. Whenever the City Council vacates and disposes of a street or alley, adjacent districts shall extend to the centerline of the vacation.
14. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this Zoning Ordinance, the legal description applies.

165.06 **APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this Zoning Ordinance within each district shall be minimum regulations and shall apply uniformly to each class of land except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
2. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
3. No yard or lot existing at the time of passage of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.
4. Whenever the requirements of this Zoning Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

165.07 **CLASSIFICATION OF NEWLY ANNEXED LAND.** All newly annexed territory shall be considered a part of the A-1 (Agricultural) District until zoned by the Commission and the Council.

165.08 NONCONFORMING USES AND STRUCTURES.

1. Statement of Intent. Within the districts established by this Zoning Ordinance, there exist lots, structures, and uses of land and structures that were lawful before this Zoning Ordinance was passed or amended, but that are prohibited, regulated, or restricted under the terms of this Zoning Ordinance or future amendment. It is the intent of this Zoning Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded, or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.
2. Nonconforming Uses of Land (or Land with Minor Structures Only). Where at the time of passage or amendment of this Zoning Ordinance lawful use of land exists that would not be permitted by the regulations imposed by this Zoning Ordinance, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:
3. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land.
4. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.
5. If any such nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.
6. No structure or building shall be constructed on or moved onto the land, unless the use is changed to a use permitted in that district.
7. Nonconforming Structures.Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Zoning Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
8. Any nonconforming building or structure which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, or other act of God, may be reconstructed and used as before if it be done within 12 months of such calamity, unless damaged more than 50 percent of its fair market value, as determined by the Board of Adjustment, at the time of such damage, in which case reconstruction shall be in accordance with the provisions of this Zoning Ordinance.
9. No building, structure, or premises where a nonconforming use has been or may be discontinued for more than one year, or has been or may be changed to a use permitted in the district in which it is located, shall again be devoted to a nonconforming use.
10. Any nonconforming use of land not involving any structure, and any nonconforming outdoor advertising sign or outdoor advertising structure may be continued for a period not to exceed three years after enactment of the Zoning Ordinance, whereupon such nonconforming use shall cease or structure shall be removed.
11. Any building or structure devoted to a nonconforming use with a fair market value of less than $500.00, as determined by the Board, may be continued for a period not to exceed three years after enactment of the Zoning Ordinance, whereupon such nonconforming use shall cease and thereafter such building or structure shall be removed or changed to a conforming use.
12. The foregoing provisions under Paragraphs A, B, C and D, insofar as these limit reconstruction or require certain uses to cease or buildings or structures to be removed or changes, shall not be applicable where any such building, structure, or use would be conforming under the land use plan as herein defined.
13. Maintenance and Repair to Vested Nonconforming Structures. Nothing in this section shall prohibit the maintenance and repair of vested nonconforming structures to keep such structures in sound and safe condition, provided that no structural enlargement, extension, alteration, or change shall be made to increase the degree of nonconformity.
14. Change of Tenancy, Ownership, or Management. There may be change of tenancy, ownership, or management of any existing nonconforming use of land, structure, or land and structure providing there is not a change in the nature or character of said nonconforming use.
15. Special Exceptions not Nonconforming Uses. Any use that is permitted as a special exception in a district under the terms of this Zoning Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a nonconforming use.

165.09 STREET FRONTAGE. No lot created after the adoption of the ordinance shall contain any building used as a dwelling unless it abuts at least 37.5 feet on a street or has a permanent exclusive non obstructed easement of access not less than 37.5 feet wide to a dedicated public street.

165.10 LOT AREA REQUIREMENTS.

1. Existing Lots of Record. In any district where dwellings are permitted, a single-family detached dwelling may be constructed on any lot of official record at the time of enactment of the Zoning Ordinance, the owner of which does not own any adjoining property, provided that proposed yard spaces satisfy requirements stipulated for the district in which said lot is located, or requirements as may be modified by the Board.
2. Lots Not Served by Sewer and/or Water. In any district, where neither water supply nor public sanitary sewer is accessible, the otherwise specified lot area and width requirements shall be a minimum of 40,000 square feet, and 200 feet; provided, however, that where a public water supply system is accessible and will be installed, these requirements shall be 20,000 square feet and 120 feet, respectively; provided further, the engineer has certified that said areas will be large enough to satisfy all applicable requirements concerning water supply and the disposal of sanitary wastes.

**165.11** NUMBER OF USES ON ONE LOT.No lot shall contain more than one principal use.

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| **EDITOR’S NOTE** | | | |
| The following ordinances have been adopted amending the Official Zoning Map described in Section 165.05 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. | | | |
| **Ordinance No.** | **Date Adopted** | **Ordinance No.** | **Date Adopted** |
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CHAPTER 166

ZONING – DISTRICT REGULATIONS

|  |  |
| --- | --- |
| 166.01 A-1 – Agricultural District | 166.07 C-2 Service Commercial District |
| 166.02 R-1 – Single-Family Residence District | 166.08 M-1 Industrial District |
| 166.03 R-2 – One- and Two-Family Residence District | 166.09 M-2 Heavy Industrial District |
| 166.04 R-3 – Multiple-Family Residence District | 166.10 Planned Unit Developments |
| 166.05 RC-1 Residential Commercial District | 166.11 Accessory Buildings and Detached Garages |
| 166.06 C-1 Light Commercial District | 166.12 Signs |

166.01 A-1 – AGRICULTURAL DISTRICT. This district is intended to provide for areas predominantly agricultural in character or undeveloped for urban use.

1. Permitted Principal Uses. The following uses are permitted in the Agricultural District.

* Public parks, playgrounds, and recreational areas.
* Essential services as defined in 165.03 and municipal administrative or public service building or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet from any lot in a residential district.
* Cemeteries of at least three acres in size.
* Churches, chapels, or parish houses located not less than 20 feet from any side lot line in any residential district.
* Any building or structure occupied or used for nursery, elementary, junior high or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot line.
* Sale of nursery and greenhouse products.
* Railroad rights-of-way and track, not including switching, storage, terminal facilities or freight yards.
* Single-family detached dwellings on lots of 20,000 square feet or more.
* Transformer stations and booster or pressure regulating stations, without service yard or storage.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the A-1 District:

* Buildings, structures, and uses accessory to agricultural uses including roadside stands, selling produce grown on the premises, provided such roadside stands are located not less than 20 feet from a street or highway right-of-way line.
* Private garages or parking areas.
* Living quarters of persons employed on the premises.
* Office of a physician, dentist, lawyer, architect, engineer, clergyman or accountant within his or her dwelling.
* Customary incidental home occupations such as handicraft, dressmaking, millinery and preserving, but not including beauty shop, barber shop, dancing or music school with more than one pupil at a time, or similar activity carried on solely by resident occupants within their residence, subject to the following provisions: (i) no more than one room is used by any resident family; (ii) no such use shall require internal or external alterations or involve construction features or use of mechanical equipment not customary in dwellings; (iii) nothing produced on the premises is sold or offered for sale; and (iv) no display of goods or service pertaining to such is visible from the street or road.
* Signs as regulated in Section 166.12.

1. Special Exceptions. The following uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.

* Sanitary landfills, in accordance with County and State regulations except that no sanitary landfill shall be operated within 1,320 feet of any residential district.
* Sewage disposal facilities.
* Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any accessory building in connection therewith shall be located not less than 200 feet from any lot in a residential district.
* Airports and landing fields.
* Outdoor drive-in theatre.
* Livestock, subject to controls of surface runoff and that livestock are housed and fed at least 1,320 feet from any residential or business district.

1. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the A-1 District.

**TABLE 166.01**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| Single-Family Dwelling | 20,000 square feet | 99 feet | 50 feet | 15 feet | 50 feet | 2½ stories or 35 feet |
| Other Permitted Uses | 40,000 square feet | 99 feet | 50 feet | 25 feet | 50 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the A-1 District.

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166.02 **R-1 – SINGLE-FAMILY RESIDENCE DISTRICT.** This district is intended to provide for large lot residential areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City.

1. Permitted Principal Uses. The following uses are permitted in the R-1 Residential District.

* Single-family detached dwellings.
* Public parks, playgrounds, and recreational areas.
* Churches, chapels, or parish houses located not less than 20 feet from any side lot/property line of a residential district.
* Cemeteries of at least three acres in size.
* Any building or structure occupied or for nursery, elementary, junior high, or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot/property line.
* Transformer stations and booster or pressure regulating stations, without service yard or storage.
* Essential services as defined in Section 165.03 and municipal administrative or public service buildings or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet for any lot line a residential district

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the R-1 District, provided there is an existing permitted principal use; no more than three accessory uses are allowed per lot:

* Private garages and storage sheds, but which shall not be higher or have a floor area greater than that of the primary structure.
* Living quarters of persons employed on the premises.
* Temporary uses, such as buildings for uses incidental to the construction work, provided that they are removed upon completion or abandonment of the primary structure.
* Office of a physician, dentist, lawyer, architect, engineer, clergymen or accountant within his or her dwelling.
* Customary incidental home occupations such as handicraft, dressmaking, millinery and preserving, but not including beauty shops, barber shops, dancing or music schools with more than one pupil at a time, or similar activity carried on solely by resident occupants within their residences, subject to the following provisions: (i) no more than one room is used by any resident family; (ii) no such use shall require internal or external alterations or involve construction features or use of mechanical equipment not customary in dwellings; (iii) nothing produced on the premises is sold or offered for sale; and (iv) no display of goods or service pertaining to such is visible from the street or road.
* Signs as regulated by Section 166.12.

1. Special Exceptions. The following uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.

* Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any principal building in connection therewith shall be located not less than 200 feet from any lot in a residential district.
* Bed and breakfast homes.
* Funeral homes or mortuaries.

1. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the R-1 District.

**TABLE 166.02**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| Single-Family Dwelling | 8,000 square feet | 66 feet | 35 feet | 10 feet | 25 feet | 2½ stories or 35 feet |
| Other Permitted Uses | 10,000 square feet | 100 feet | 35 feet | 15 feet | 25 feet |
| * There may be a reduction of the minimum required side and rear yard setbacks by up to 50 percent if application is made, applicant shows reasonable cause for such reduction, and doing so will not cause harm to any adjacent property owners. | | | | | | |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the R-1 District.

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166.03 **R-2 – ONE- AND TWO-FAMILY RESIDENCE DISTRICT.** This district is intended to provide for one- and two-family residential areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City.

1. Permitted Principal Uses. The following uses are permitted in the R-3 District.

* Any structure as permitted in R-1 except for agriculture and farming.
* Two-family dwellings.
* Any dwelling converted for two-family use provided the combined livable floor area, excluding basements, is not less than 1,400 square feet.
* Lodging house with not more than two lodges.
* Retirement home and nursing home.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the R-2 District, provided there is an existing permitted principal use; no more than three accessory uses are allowed per lot:

* Same as permitted in R-1 Residence District
* Signs as regulated by Section 166.12.

1. Special Exceptions. The following uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.

* Any use as regulated in the R-1 District, except as hereinafter modified.
* Kindergartens, day nurseries, or nursery schools, provided that any play lot used in connection therewith be suitably fenced and screened in accordance with requirements of the Board.
* Tourist homes; motels or motor hotels on lots abutting on State or federal highways; subject to the special provisions on motels or motor hotels.
* The following lots abutting on State and federal highways: (i) offices of civic, religious, or charitable organizations and financial or insurance institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises; (ii) offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises; and (iii) professional offices of architects, engineers, and lawyers.
* Offices of civic, religious, or charitable organizations and financial institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises.
* Physician and dentist offices and private clinics for human care, professional offices of architects, engineers, lawyers, and the like; offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises.
* Mobile home parks subject to the following conditions:
* Mobile home park shall be located on a parcel of ground of at least five acres in size and each boundary line of the park shall be at least 100 feet from any residential structure located outside park unless separated therefrom by a natural or artificial barrier.
* The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
* Each mobile home space shall be large enough to provide a distance of 10 feet between any residence unit or structure on the space and the lot line, a front yard of 15 feet and a rear yard of 10 feet.
* All mobile home spaces shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street.
* Walkways not less than two feet wide shall be provided to service the buildings.
* All driveways and walkways in the park shall be hard surfaces and lighted at night.
* Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed.
* An electrical outlet supplying at least 110 volts shall be provided to each trailer space.
* Adequate sanitary facilities and supply of pure water shall be provided to each trailer space.
* Each park shall comply with the regulations set forth by competent authority.

1. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the R-2 District.

**TABLE 166.03**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| Single-Family Dwelling | 6,000 square feet | 50 feet | 25 feet | 7 feet | 25 feet | 2½ stories or 35 feet |
| Two-Family Dwelling | 3,000 square feet per family | 50 feet | 25 feet | 7 feet | 25 feet |
| Other Permitted Uses | 10,000 square feet | 100 feet | 25 feet | 15 feet | 30 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the R-2 District.

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166.04 R-3 MULTIPLE-FAMILY RESIDENCE DISTRICT. This district is intended to provide land for dwellings for more than two families in areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City.

1. Permitted Principal Uses. The following uses are permitted in the R-3 District.

* Any structure as permitted in the R-2 District.
* Multiple-family dwellings.
* Any dwelling converted for two-family use provided the combined livable floor area, excluding basements, is not less than 700 square feet per dwelling unit.
* Lodging house.
* Hospital.
* Mortuary.
* Club or lodge where principal activity is not conducted as a business.
* On-site sign not exceeding 20 square feet.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the R-3 District, provided there is an existing permitted principal use; no more than three accessory uses are allowed per lot:

* Same as permitted in R-2 Residence District
* Signs as regulated by Section 166.12.

1. Special Exceptions. The following uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.

* Any use as regulated in the R-2 District.

1. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the R-3 District.

**TABLE 166.04**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| Single-Family Dwelling | 6,000 square feet | 50 feet | 25 feet | 5 feet | 25 feet | 2½ stories or 35 feet |
| Two-Family Dwelling | 3,000 square feet per family | 50 feet | 25 feet | 5 feet | 25 feet |
| Multiple-Family Dwelling | 1,725 square feet per family | 80 feet | 25 feet | 5 feet | 25 feet |
| Other Permitted Uses | 10,000 square feet | 100 feet | 25 feet | 15 feet | 30 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the R-3 District.

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166.05 RC-1 RESIDENTIAL COMMERCIAL DISTRICT. The Residential Commercial District is intended to provide for businesses that generate more traffic than permitted under home occupation settings, but still maintain the feel of a traditional residential district. Whereas the likes of manufacturing, storage, or retailing, just like residential zones, are still prohibited, this zone accommodates offices, clinics, and other uses that may be home occupations, but draw more than one customer or a few workers at a time. A requirement of this district that differs from a traditional home occupation is that there are off-street parking requirements to accommodate more than one customer and multiple employees.

1. Permitted Principal Uses. The following uses are permitted in the RC-1 District.

* Any use permitted in the R-3 District subject to all requirements specified for such residential district.
* Office in which only office work is performed. The manufacture, treatment, storage, repair, renting, wholesaling, retailing, or exchange of any product on the premises is prohibited.
* Clinics and doctors’ office for a human treatment and pharmacy when it is in conjunction with a doctor’s office.
* On-site sign attached to the building provided on-site signs of 20 square feet or less may be standing.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the RC-1 District, provided there is an existing permitted principal use; no more than three accessory uses are allowed per lot:

* Signs as regulated by Section 166.12.
* Off-street parking for the permitted uses (required).

1. Special Exceptions. Uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.
2. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the RC-1 District.

**TABLE 166.05**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| All Permitted Uses | None | 66 feet | 25 feet | 5 feet | 25 feet | 2½ stories or 35 feet |
| * All residential uses in this district are subject to the lot and height requirements of the R-3 District. | | | | | | |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the RC-1 District.

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166.06 C-1 LIGHT COMMERCIAL DISTRICT. This district is intended to provide for certain areas of the City for the development of retail, service, and other nonresidential uses that can be accommodated in the downtown district without front setbacks, shared parking, and low neighborhood impact. Residences are allowed.

1. Permitted Principal Uses. The following uses are permitted in the C-1 District.

* Any use or structure permitted and as regulated in Sections RC-1 except as hereinafter modified.
* Any retail business establishment, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drug store, fabric shop, floor covering store, florist shop, furniture store including incidental upholstering, gift shop, grocery store, haberdashery or women’s ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store and variety store.
* Any service establishment, such as auto repair, bank, or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pick-up station, funeral home, theater, and self-service laundry.
* Bus station.
* Business or trade school.
* Commercial parking lot.
* Department store.
* Hotels and motor hotels.
* Meeting hall, club, and fraternal organization.
* Music and dancing studio.
* Public parking lot, customer and other accessory parking area, subject to the applicable provisions of Section 167.01.
* Other business, professional, or service establishment.
* Furniture upholstering shop only when operated in conjunction with a retail business on the premises.
* Printing, publishing, engraving, or lithographing shop.
* Laundry and dry cleaning shop.
* Apartments, provided that the primary storefront area is only used for commercial, nonresidential purposes.
* The following uses when occupying a completely enclosed building located at least 100 feet from any residential district: dance hall, bar or cocktail lounge, night club, and similar enterprise.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the C-1 District, provided there is an existing permitted principal use.

* Signs as regulated by Section 166.12.

1. Special Exceptions. Uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.
2. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the C-1 District.

**TABLE 166.06**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| Dwellings | Same as R-3 District | | | | | |
| Other Permitted Uses | None |  |  | None, except where adjoining a residential district, then same as the least width required in that residential district | 20 feet, except where adjoining a residential district, then same as the least width required in that residential district | 3 stories or 45 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the C-1 District.

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166.07 C-2 SERVICE COMMERCIAL DISTRICT. This district is intended to provide for certain areas of the City for the development of retail, service, and other nonresidential uses which, because of certain locational requirements and operation characteristics, are appropriately located in close proximity to arterial and other main thoroughfares.

1. Permitted Principal Uses. The following uses are permitted in the C-2 District.

* Any use or structure permitted and as regulated in the C-1 District except as hereinafter modified.
* Building material sales yards, if enclosed on all sides by an eight foot high solid fence.
* Motels or motor hotels, subject by the provisions of 167.04.
* Drive-in dining establishments.
* Motor fuel stations subject to the conditions stipulated in Section 167.03.
* Animal hospitals and veterinary clinics provided that buildings or enclosures in which animals are kept shall be at least 100 feet away from any R District.
* Commercial baseball field, bath house, or boat house, golf driving range, skating rink, swimming pool, or smaller open air recreational use and facilities, but not within 200 feet of any R District.
* The following uses provided no part of a building where any activity is conducted shall have any openings other than stationary windows or required fire exits within 100 feet of any R District.
* Automobile, truck, trailer, and garden and farm equipment establishments for display, hire, sales, including sales lots.
* Bottling of soft drinks or milk or distribution systems.
* Bowling alley, pool hall or billiard parlor, dance hall, bar or cocktail lounge, night club, and similar enterprises.
* Carpenter shop, electrical, heating, ventilating or plumbing shop, furniture upholstering shop, printing, publishing, engraving or lithographing plant, laundry and dry cleaning shop, sign paining shop, and similar establishments.
* Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in a C-2 District.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the C-2 District, provided there is an existing permitted principal use.

* Signs as regulated by Section 166.12.

1. Special Exceptions. Uses may be authorized by the Board pursuant to Section 168.02. Specific conditions may be applied to special exceptions if they are approved.
2. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the C-2 District.

**TABLE 166.07**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| Dwellings | Same as R-3 District | | | | | |
| Other Permitted Uses | 10,000 square feet | 100 feet | 25 feet | None, except where adjoining a residential district, then same as the least width required in that residential district | None, except where adjoining a residential district, then same as the least width required in that residential district | 3 stories or 45 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the C-2 District.

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166.08 M-1 INDUSTRIAL DISTRICT. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole, by reasons of noise, dust, smoke, odor, traffic, physical appearance, or other similar factors. Outdoor storage is allowed in this district when the material is enclosed within a fence (solid or otherwise impenetrable, such as chain link) at least six feet high and said fence is within required setback lines. All industrial operations must be in an enclosed building. No residential uses are permitted in the Light Industrial District.

1. Permitted Principal Uses. The following uses are permitted in the M-1 District.

* Any use or structure permitted and as regulated in the C-2 District, except as hereinafter modified.
* The following uses if located not less than 100 feet from any residential district, provided any such operations are enclosed by a solid wall or fence not less than six feet in height:
* Builder or contractor’s plant or storage yard.
* Building material sales and storage yard, including concrete mixing.
* Lumber yard, including millwork.
* Open yard for storage and sale of feed, fertilizer, or fuel.
* The following uses, providing no part of a building occupied by such uses shall have openings other than stationary windows or required fire exits within 100 feet of a residential district:
* Automobile repair garage doing major repair, including tire retreading or recapping, battery service, and repair.
* The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, milk, and food products.
* The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared material: canvas, cellophane, cloth, fiber, glass, leather, paper, plastics, precious or semi­precious metals or stone, rubber, textiles, wood, and yarn.
* The manufacture or assembly of electrical appliances, electronic instruments and devices, phonographs, radio and television sets, electric and neon signs, refrigerators and stoves.
* Laboratory experimental, film or testing.
* Railroad freight stations, trucking or motor freight terminals, provided that service yards or docks are at least 100 feet from any lot in any residential district.
* Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in an M-1 District.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the M-1 District, provided there is an existing permitted principal use.

* C-2 Service Commercial District accessory uses.
* Other accessory uses customarily incidental to a permitted principal use, including signs as regulated by Section 166.12.

1. Prohibited Uses. The following uses are not permitted in the M-1 District:

* Residential dwellings, except for watchman or caretaker on the premises.
* Schools, hospitals, clinics, and other institutions for human care, except when incidental to a permitted principal use.
* Auto salvage and wrecking operations, industrial metal and waste salvage operations, and junk yards.

1. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the M-1 District.

**TABLE 166.08**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| All Permitted Uses | None | None | 20 feet | 5 feet | Equal to building height, but not less than 20 feet | 3 stories or 45 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the M-1 District.

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166.09 M-2 HEAVY INDUSTRIAL DISTRICT. This district is intended to provide for areas for activities and uses of a heavy industrial nature. In the best interest of the City, certain uses (i.e., those listed below as requiring special approval) in the M-2 District shall be subject to final Board of Adjustment approval, conditional approval, or denial to ensure that proper safeguards are taken. No residential uses are permitted in the M-2 District.

1. Permitted Principal Uses. The following uses are permitted in the M-2 District.

* Any use, except any residential use, and except those uses listed in Subsection 3, which require approval of the Board of Adjustment.

1. Permitted Accessory Uses. The following accessory uses, customarily incidental and subordinate to permitted principal uses, are allowed the M-2 District, provided there is an existing permitted principal use.

* Accessory uses customarily incidental to any permitted or specially approved principal use.
* Living quarters for watchmen or custodians of industrial properties.

1. Permitted Uses Requiring Special Approval. The following uses may be authorized by the Board of Adjustment with conditions, pursuant to provisions and procedures as detailed in this subsection.

* Acid manufacture.
* Cement, line, gypsum, or plaster of Paris manufacture.
* Distillation of bones.
* Explosive manufacture or storage.
* Fat or oil rendering.
* Fertilizer manufacture and storage.
* Gas manufacture.
* Garbage, offal, or dead animals, reduction or dumping.
* Glue manufacture.
* Refining of petroleum or petroleum products.
* Smelting of tin, copper, zinc, or iron ores.
* Stockyards or slaughter of animals.
* Junk yards. Junk yards must be surrounded by a solid fence at least six feet high located within setback lines, and the junk must not be piled higher than the fence.

1. Procedure for Review by the Board. Before granting approval for a use identified above, the Board shall refer applications to the Planning and Zoning Commission for study, investigation, and report. If no report is received in 30 days, the Board may assume approval of the application. The Board shall then hold a public hearing on the application. After said hearing, the Board shall consider all of the following provisions in its determination upon the particular use at the location requested:

(1) The proposed location design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.

(2) Such use shall not impair an adequate supply of light and air to the surrounding property.

(3) Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.

(4) Such use shall not diminish or impair established property values in adjoining or surrounding property.

(5) Such use shall be in accord with the intent, purpose, and spirit of this Zoning Ordinance and the Comprehensive Plan of the City.

1. Required Conditions.

(1) 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 and subject to conformance with Iowa Department of Natural Resources, Environmental Protection Agency, and other applicable laws and regulations.

(2) All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from any residential district boundary, except where adjoining a railroad right-of-way, and 50 feet from any commercial district boundary.

1. Minimum Setback, Area, and Height Requirements. The following table sets out the minimum setback, area, and height requirements in the M-2 District.

**TABLE 166.09**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Use** | **Minimum Lot Area** | **Minimum Lot Width** | **Minimum Front Yard** | **Minimum Side Yard** | **Minimum Rear Yard** | **Maximum Height** |
| All Permitted Uses | None | None | 30 feet | None, except if adjacent to a residential district, then it shall be 100 feet; if adjacent to a commercial district, it shall be 50 feet | 50 feet, except if adjacent to a residential district, then it shall be 100 feet; unless bordering a railroad right-of-way, in which case none shall be required | The lesser of 4 stories or 45 feet |

1. Supplementary and Additional Regulations. See Sections 166.11 and 166.12 for supplementary regulations pertaining in the M-2 District.

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166.10 PLANNED UNIT DEVELOPMENTS. It is the intent of this section that the basic principles of good land use planning, including an orderly and graded relationship between various types of uses, be maintained and that the zoning standards as set forth in this Zoning Ordinance be preserved. Normal permitted uses are those of a primarily residential character including single-family and multiple-family dwellings; usual accessory buildings such as garages; storage space; maintenance structures; and buildings for recreational purposes. Commercial uses in such developments are limited to those that are primarily for the service and convenience of the residents of the development.

1. Dwelling Groups.
2. In the case of a project consisting of a group of two or more buildings to be constructed on a plot of ground not subdivided into the customary streets and lots and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this Zoning Ordinance to the individual building units in such project, the applying of such requirements to such project shall be done by the Board of Adjustment in a manner that will ensure substantially the same character of occupancy, maximum intensity of use, and minimum standard of open spaces as permitted by this Zoning Ordinance in the district in which the proposed project is to be located.
3. In no case shall the Board authorize a use or a building height prohibited in the district in which the project is to be located, or a smaller lot area per family than the minimum required under the Zoning Ordinance in such district. Nor shall the Board authorize a building coverage exceeding that which would be obtained were the same area to be developed by the customary subdivision thereof into streets and lots in conformance with the adopted subdivision regulations, and by the type of buildings customary in the district and in compliance with the requirements of this Zoning Ordinance. The Board shall not authorize the erection of a project on a parcel of ground occupied by another principal structure.
4. Residence Development Projects. A residence development project consisting of any number of buildings, the contemplated arrangement of which makes it impossible to apply the requirements of this Zoning Ordinance to the individual buildings, may be authorized by the Board in districts in which such projects are permitted under the Zoning Ordinance. In so doing, the Board shall first refer the plans for such project to the Commission for study, public hearing, and report upon finding that the plans of such project meet the following conditions:
5. The tract of land on which the project is to be erected is of sufficient size and has appropriate topography and sufficient access to service to support the project.
6. The buildings are to be used primarily for residential purposes and the customary accessory uses, such as private garages, storage spaces, recreational and community activities.
7. The average lot area per family or dwelling unit on the site, exclusive of the area occupied by drives or streets, will not be less than 90 percent of the lot area per family required in the residential district in which the project is to be located.
8. There is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas, as specified in Section 167.01.
9. There are to be provided, as a part of the project, adequate recreation facilities to serve the needs of the anticipated population to be housed therein.
10. Drives, access ways and parking areas are developed to a standard equal to that required for public use.
11. Such drives and access ways are protected by recorded deed covenants assuring their availability to all residents of the project.
12. The proposed project will constitute a residential environment of a sustained desirability and stability; that it will be in harmony with the character of the surrounding neighborhood and ensure substantially the same type of occupancy as obtained or may be expected to be obtained in said neighborhood; it will result in intensity of land utilization no higher, and standards of open spaces at least as high as permitted or specified in the ordinance in the district in which the project is to be located.
13. The project will be consistent with the intent and purpose of the Zoning Ordinance to promote public health, safety, and general welfare.

After review by the Commission, the City Council may then consider the P.U.D. proposal. If the City Council approves the plan, building permits may be issued even though the use of the land, location of buildings, and yards and open spaces detailed by the plans do not conform in all respects to the district regulations of the district in which it is located. Upon approval, said area shall be designated on the Official Zoning Map.

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166.11 **ACCESSORY BUILDINGS AND DETACHED GARAGES.** Detached accessory buildings shall conform to all yard and setback requirements except such accessory building may be located not less than five feet from the rear property line or interior property line, and also:

1. Any accessory building shall not occupy more than 35 percent of the required rear yard.
2. Any accessory building shall not exceed the primary building in height.
3. Accessory buildings shall not have a floor area that is greater than that of the primary structure.
4. Accessory buildings shall be at least six feet back from the nearest rear wall of the residence.
5. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used unless the main building on the lot is being used. All detached garages or accessory buildings shall conform to the applicable front yard setback.

166.12 **SIGNS**. The following regulations shall apply to signs in all districts.

1. Total Area. The total area of all signs permitted on a lot shall include:
2. The total area of the faces visible from a public way of all permanent exterior signs, plus the area of permanent signs placed upon the surface of windows and doors, plus the area within the outline enclosing the lettering, modeling, or insignia of signs integral with the wall and not designed as a panel.
3. A building or use having frontage on a second street may include 20 percent of the length of the lot facing the second street.
4. Signs not exceeding four square feet in area indicating the brand of seed or the type of fertilizer being used.
5. Signs not exceeding 20 square feet in area pertaining to a permitted recreation use or areas of scenic beauty provided such signs shall be set back at least 30 feet from any right-of-way and there shall be a distance of 300 feet between any such signs.
6. Real estate signs of a temporary nature, not exceeding two in number per lot nor larger than 12 square feet set back 20 feet from any highway, street, or road.
7. Signs accessory to roadside stands shall be limited to two signs per lot with no sign being larger than 10 square feet in area and set back at least 10 feet from the right-of-way of a street, highway, or road.
8. Small announcement or professional signs, not over six square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of a nonresidential nature.
9. For special events, off-premises advertisements may be posted 48 hours in advance of the event and must be removed upon conclusion of the event. Signs must be set back at least 20 feet from any highway, street, or road and may be denied or removed at the discretion of the Mayor. Only City-sponsored events may be posted on City property.
10. Signs Permitted in Residential Districts.
11. Real estate signs of a temporary nature, not exceeding two in number per lot nor larger than six square feet set back 20 feet from any highway, street or road.
12. A sign or signs flat against a building appertaining to a nonconforming use on the premises, not exceeding the aggregate 50 square feet in area except as may be authorized by the Board.
13. Small announcement or professional signs, not over six square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.
14. One name plate not exceeding two square feet for each dwelling.
15. Signs flat against the building, appertaining to any of the permitted principal uses of a nonresidential character.
16. Signs Permitted in the RC-1 District.
17. Signs as permitted and regulated in Subsection 2 above except as hereinafter modified.
18. The total area of all signs permitted on any one lot shall not exceed two times the number of linear feet the lot abuts on the street.
19. Signs Permitted in the Commercial and Industrial Districts.
20. Signs as permitted and regulated in Subsection 3 above except as hereinafter modified.
21. Billboards and signboards, subject to the same height and location requirements as other structures in the C-2 District and also subject to the following conditions and restrictions:

(1) No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.

(2) No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district. The front yard shall be observed as required in each district.

(3) No billboard or signboard shall exceed 300 square feet in area.

(4) No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

1. Elevated signs at least five feet from any lot line.
2. Projecting signs at least five feet from any lot line.
3. Projecting signs at least eight feet above the sidewalk and extending no further than five feet from the building to which it is attached.

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CHAPTER 167

ZONING – SPECIAL PROVISIONS

|  |  |
| --- | --- |
| 167.01 Off-Street Parking Areas and Loading Spaces | 167.08 Exceptions and Modifications |
| 167.02 Residential Driveway Requirements | 167.09 Traffic Visibility Across Corner Lots |
| 167.03 Garages, Motor Fuel Stations, and Car Washes | 167.10 Accessory Yard Fixtures |
| 167.04 Motels or Motor Hotels | 167.11 Swimming Pools and Ponds in Residential Districts |
| 167.05 Floor Area | 167.12 Structures to Have Access |
| 167.06 Benches in Place of Public Assembly | 167.13 Residential Dwelling Standards |
| 167.07 Exceptions | 167.14 Fences, Walls, Hedges and Trees |

167.01 OFF-STREET PARKING AREAS AND LOADING SPACES. The following minimum off-street parking requirements shall apply. In the case of any use which is not specifically mentioned herein, the provisions for a similar use which is mentioned shall apply.

|  |  |  |
| --- | --- | --- |
| Zoning District | Use | Off-Street Spaces Required |
| R Residential Districts | Single-family detached | 2 for each dwelling unit |
| All other dwellings | 1½ for each dwelling unit |
| Churches and schools | 1 for every 4 seats in the main auditorium |
| Hospitals, nursing homes, and similar care centers | 1 for each 5 beds plus 1 for each 2 doctors and employees |
| C Commercial and M Industrial Districts | Automobile or machinery sales | 1 for each 1,000 square feet of floor area plus 1 for each full-time employee |
| Banks, business and professional offices | 1 for every 200 square feet of floor area |
| Bowling alleys | 6 for each alley |
| Convenience stores (drug, grocery, hardware, and similar stores) | 1 for every 300 square feet of floor area devoted to sales plus 1 for each full-time employee |
| Dance halls and assembly halls without fixed seats | 1 for each 300 square feet of floor area used for assembly or dancing |
| Drive-in eating establishments | Not less than ½ of the total ground area to be devoted exclusively to parking and accessways |
| Food pick-up establishments | Minimum of 2 plus 1 for each 100 square feet of floor area |
| Funeral homes and mortuaries | 6 per chapel room or parlor or 1 per 50 square feet of rooms used for services, whichever is greater |
| Manufacturing plants, research or testing laboratories, bottling plants | 2 for each employee on maximum shift |
| Medical or dental clinics | 1 for each 200 square feet of floor area plus 1 for each full-time employee and 1 for each doctor |
| Motels or motor hotels | 1 for each unit plus 1 for each 2 employees on maximum shift |
| Motor fuel stations | 1 for each employee on duty plus 1 for each service bay |
| Barber shops | 2 for each chair plus 1 for each 2 employees on maximum shift |
| Beauty shops | 1 for each dryer plus 1 for each 2 employees on maximum shift |
| Coin-operated laundries and/or dry-cleaning establishments | 1 for each 3 washers and/or cleaning machines plus 1 for each 2 employees on maximum shift |
| Restaurants | 1 for each 3 seats plus 1 for each 2 employees on maximum shift |
| Shopper’s goods, appliances, household equipment, furniture and similar stores | 1 for each 500 square foot of floor area plus 1 for each full-time employee |
| Taverns or bars | 1 for each 2 seats plus 1 for each 2 employees on maximum shift |
| Theatres | 1 for each 4 seats |
| Wholesale establishments | 1 for each 4 employees on maximum shift |

1. Off-Street Loading Spaces. In all districts, in connection with every building (or part thereof) hereafter erected having a gross floor area of 2,500 square feet or more, which is to be occupied by uses requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building at least one off-street loading space accessible from an alley, easement of access, or, when there is no such alley or easement of access, from a street, plus one additional such loading space for each 10,000 square feet or major fraction thereof of gross floor area so used in excess of 15,000 square feet. Such space may occupy all or any part of a required rear yard or, with authorization of the Board of Adjustment, part of any other yard or court space on the same premises.
2. Loading Space. Each loading space shall not be less than 10 feet wide, 40 feet in length and 14 feet in height, exclusive of access and turning area.
3. In all districts except C-2, off-street accessory parking areas, in the open or in a garage shall be provided in addition to the above required loading and unloading spaces. Such areas, in the case of residential districts and for dwellings in other districts, shall be on the premises intended to be served; and in the case of M-1 districts, and in connection with uses other than dwellings, such areas shall be on the premises intended to be served or on adjoining or nearby property within 100 feet of any part of said premises and in the same or less restricted district.
4. Development Standards. Off-street accessory parking areas shall be of useable shape, and shall be improved, in accordance with requirements of the Council, with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area. Any lighting used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in any R District.
5. Units of Measurement. Each parking space rectangular in shape shall not be less than eight and one-half feet wide and 20 feet long, or not less than 170 square feet in area, exclusive of access drives or aisles.

167.02 RESIDENTIAL DRIVEWAY REQUIREMENTS.Driveways in residential areas that lead directly to a garage attached to a house, or that lead to a detached garage located in a side yard shall be hard-surfaced. Driveways leading to garages or sheds in rear yards shall not require specific surfacing.

167.03 GARAGES, MOTOR FUEL STATIONS, AND CAR WASHES.

1. No building, structure or premises shall be used, erected, or altered which is intended or designed to be used as a public garage, automobile repair shop, motor fuel station, or car wash having an entrance or exit for which vehicles in the same block front within 100 feet of any school, public playground, church, hospital, public library, or institution for dependents or for children, and no such entrance or exit shall be located within the same block-front and within 20 feet of any residential district; nor shall any part of such public garage, automobile repair shop, motor fuel station, or car wash be located within 100 feet of any building or grounds of any of the aforesaid public or institutional uses.
2. All activities incidental to the sale of gasoline or oil such as battery and tire repair, car washing and greasing shall be conducted within the building and there shall be no storage or accumulation of miscellaneous equipment, machinery or motor vehicles, disabled or otherwise, outside of the principal structure.

167.04 **MOTELS OR MOTOR HOTELS.** No vehicular entrance to or exit from any motel or motor hotel, wherever such may be located, shall be within 200 feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or on another street, which the premises in question do not abut. Additionally, the following conditions shall be met:

1. Any lot to be used for a motel or motor hotel shall be not less than 15,000 square feet in area and shall contain not less than 1,000 square feet of lot area per sleeping unit. All buildings and structures on the lot shall occupy in the aggregate not more than 25 percent of the lot.
2. All areas used for automobile accessory parking shall comply with the provisions of 167.01(2).
3. All areas not used for access, parking, circulation, buildings, and services shall be completely landscaped and the entire site maintained in good condition.
4. No enlargement or extensions to any motel or motor hotel shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such an establishment.

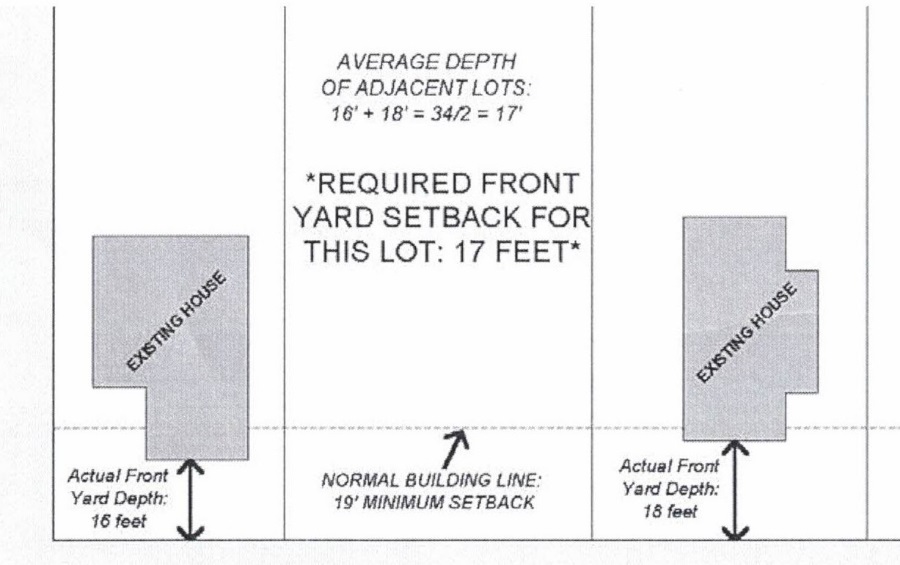
167.05 **FLOOR AREA.** In the case of merchandising or service types of uses, “floor area” means the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, or clients, but shall not include areas used principally for non-public purposes, such as toilet or rest rooms, utilities, or dressing rooms.

167.06 **BENCHES IN PLACE OF PUBLIC ASSEMBLY.** In stadiums, sports arenas, churches, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this Zoning Ordinance.

167.07 **EXCEPTIONS.** The Board of Adjustment may authorize on appeal a modification, reduction, or waiver of the foregoing requirements, if it should find that in the particular case the peculiar nature of the use, or other exceptional situation or condition would justify such modification, reduction, or waiver. The Commission, in consultation with other municipal departments and agencies, shall make studies as found advisable of various areas in the community for the purpose of determining areas within which there is need for off-street parking facilities to be provided by the municipality and to be financed wholly, or in part, by a special assessment district or other means. Where such need is found, the Commission shall report its recommendation for the acquisition of such off-street parking facilities to the Council. Each report shall include recommendations on the type, size, location and other pertinent features of the proposed off-street parking facilities and the area they are intended to serve. Required spaces shall be available for the parking of licensed and operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business of use.

167.08 **EXCEPTIONS AND MODIFICATIONS.** The requirements and regulations specified in this Zoning Ordinance shall be subject to the additional requirements, exceptions, modifications, and interpretations as follows:

1. Height Limits. Height limitations stipulated elsewhere in this Zoning Ordinance shall not apply to the following:
2. Barns, silos, or other farm buildings or structures on farms, provided these are not less than 50 feet from every lot line; church spires, belfries, cupolas, and domes, monuments, water towers, fire and hose towers, masts and aerials; parapet walls extending not more than four feet above the limiting height of the building. However, if, in the opinion of the Clerk, such structures would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.
3. Place of public assembly such as churches, schools, and other permitted public and semi-public buildings not to exceed six stories or 75 feet, provided that for each foot by which the height of such building exceeds the maximum height otherwise permitted in the district its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
4. Bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height. Where a permitted use requires greater heights than specified, such may be authorized by the Board of Adjustment.
5. Front Yard Exceptions and Modifications. Front yard requirements do not apply to bay windows or balconies occupying in the aggregate not more than one-third of the front wall, provided that these projections come entirely within planes drawn from either main corner of the front wall, making an interior angle of 22 and one-half degrees in the horizontal plane with the front wall; to chimneys, flues, belt courses, leaders, sills, pilasters, uncovered porches, planting, or similar features not over three feet high above the average finished grade and distant five feet from every lot line. In any district where the average depth of two or more existing front yards on lots within 100 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard on such lot shall not be less than the average of said existing front yards or the average depth on the two lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, the depth of front yard on a lot in any residential district shall be at least 15 feet and need not exceed 60 feet.



1. Side Yard Exceptions and Modifications.
2. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district. Where a lot in an industrial or business district abuts a lot in a residential district, the side yard shall be increased by three feet for each story that the building proposed on such lot exceeds the height limit of the said residential district.
3. Side yards shall be increased in width by two inches for each foot by which the length of the side wall of the building, adjacent to the side yard, exceeds 50 feet in any residential district.
4. Side yards may be reduced by three inches from the otherwise required least width of each side yard for each foot by which a lot of record at the time of enactment of the Zoning Ordinance is narrower than the lot width specified for the district in which the lot is located, in the case of buildings not higher than two and one-half stories, and in the case the owner of record does not own any adjoining property; provided, however and irrespective of the provisions of Paragraph F below that no side yard shall be narrower at any point than three feet. *See example in Table 167.08(3)(F) below.*
5. Side yards may be measured to the centerline of adjoining alleys, but in no case shall a building or structure for which a side yard is required be erected within 10 feet of such alley.
6. On a corner lot the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street.
7. Structures or projections into side yards may be permitted as follows:

(1) Fences, planting or walls not over five feet above the average natural grade.

(2) Fire escapes, three feet from side lot line.

(3) Bays and balconies not more than three feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall, making an interior angle of 22 and one-half degrees in the horizontal plane with the side wall. The sum of the lengths of such projection shall not exceed one-third of the length of the wall of the main building.

(4) Chimneys, flues, belt courses, leaders, sills, pilasters and lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required side yard not more than one and one-half feet.

(5) Terraces, steps, uncovered porches, stoops, or similar features, not higher than the elevation of the ground story of the building and distant three feet from a side lot line.

**TABLE 167.08(3)(F)**

**Sample Calculation of Side Yard Setback Reductions for Existing Lots   
Smaller Than Minimum Requirements of Zoning Ordinance**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Actual Lot Width | Minimum Required | Difference | X 3 Inches = | Divided by 12 Inches (one foot) |
| 50 feet | 70 feet | 20 feet | 60 inches | 5 feet  (total reduction in side yard setback, or 2½ feet for each side yard) |

1. Rear Yard Exceptions and Modifications.
2. Rear yards may be reduced by three inches from the required least depth for each foot by which a lot at the time of enactment of the Zoning Ordinance is less than 100 feet deep, in the case of a building not higher than two stories, and in case the owner of record does not own adjoining property to the rear; provided, however, no required rear yard shall be less than 10 feet deep.
3. Rear yards may be measured to the centerline of adjoining alleys, but in no case shall a building or structure be erected within 10 feet of such an alley.
4. Structures or projections into rear yards may be permitted as follows:

(1) Fences, plantings, or walls not over five feet above the average natural grade.

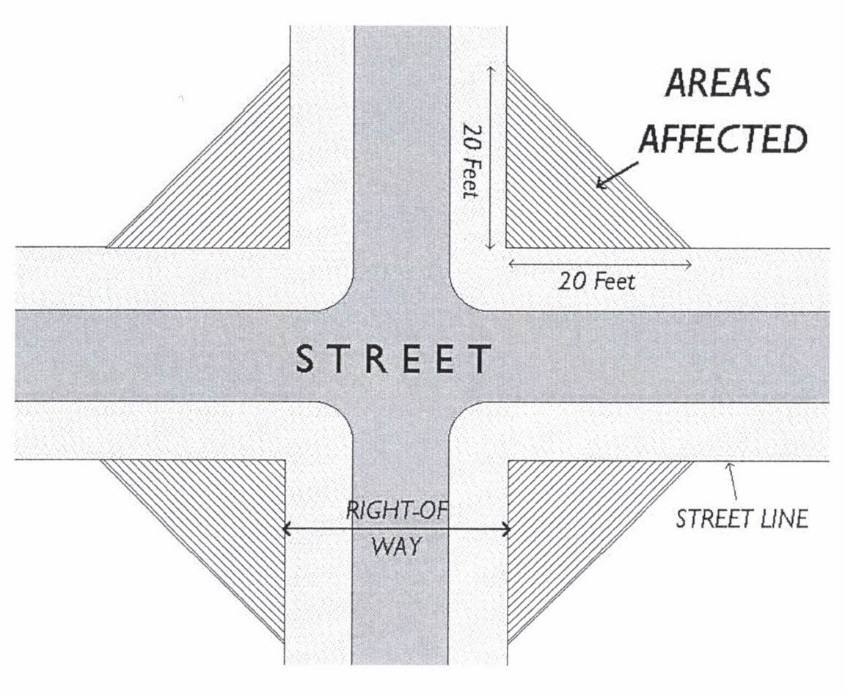
(2) Fire escapes, six feet.

(3) Bays and balconies, not more than three feet, provided these projections are entirely within planes drawn from either main corner of the rear wall, making an interior angle of 22 and one-half degrees in the horizontal plane with the rear wall. The sum of the lengths of such projections shall not exceed one-half the width of the rear wall.

(4) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required rear yard not more than one and one-half feet.

1. Additional Requirements, Exceptions and Modifications.
2. Extension of older garages within the City maintaining the same side widths as the existing structure is permitted.
3. New homes or additions to residences in a developed area may be placed as close to the street as the closest existing house on the same block front. If more than one house on the block front, the house shall be lined up being no closer nor no further than the existing residences, at the discretion of the Board.
4. If there is no alley, construction can be seven feet from property line (like a side-yard). If alley is platted but not open, the building must be 10 feet from alley.
5. If a building that does not meet the requirements of being 10 feet from alley, the City is not liable if the building is damaged in snow removal.
6. Garages must be placed back from the front far enough so that a car parked in front of the garage will not be on the sidewalk.
7. Utility buildings must be securely tied down.
8. Persons putting concrete for driveways on parking (City property) are required to sign a maintenance contract with the City stating that they will be responsible if the concrete has to be removed for a variety of reasons or if the concrete breaks up, etc.

167.09 **TRAFFIC VISIBILITY ACROSS CORNER LOTS**. In any residential district on any corner lot, nothing shall be erected, placed, maintained, planted, or allowed to grow within 20 feet of the corner of the intersection right-of-way so as to interfere with traffic visibility across the corner. (See diagram for illustration).

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167.10 **ACCESSORY YARD FIXTURES.** Accessory fixtures (satellite dishes, lampposts, flagpoles, etc.).are allowed in all districts subject to the following provisions and limitations. No more than three accessory uses are permitted in Residential Districts. The permanent installation of any such fixture, whether listed here or not, shall require a building permit per the requirements of Section 168.01 of this Zoning Ordinance. Fixtures not permanently attached to the property shall not require a building permit, but are still subject to the requirements herein.

1. Liquid Propane Fuel Tanks. All liquid propane fuel tanks shall be placed in rear or side yards. LP fuel tanks holding under 125 gallons may be placed in any part of rear or side yards. LP fuel tanks holding between 125 and 500 gallons shall be placed a minimum of 10 feet from any property or lot line. In relation to buildings and structures, LP fuel tanks shall be sited at distances from buildings sufficient to meet *Uniform Fire Code* requirements.
2. Satellite Dish Antennas. The placement of satellite dish antennas, either permanent or temporary, is permitted in side or rear yards of any district. Satellite dish antennas shall be considered an accessory structure (except that a 72-hour temporary use is allowed), and shall be subject to provisions for accessory structures as provided in Section 166.11. No satellite dish shall exceed a diameter of 12 feet, except in the case of one that is owned and operated by, and part of a public cable television system.
3. Lampposts. Lampposts, light bollards, and other similar exterior lighting fixtures are permitted in all districts. Lampposts shall not exceed a height of seven feet except by special exception, and no lamppost or bollard exceeding three feet in height may be erected or placed within 20 feet of any intersection or on any public utility easement. All electrical and gas lines powering lampposts or bollards must be underground.
4. Flagpoles. Flagpoles are permitted in all districts. Flagpoles shall be subject to height requirements in each district. Flagpoles may be erected in any part of a yard so long as they do not interfere with any public utility lines or create traffic visibility issues. All electrical lines powering lights for lighted flagpoles shall be underground. Flags and flagpoles attached directly to structures shall not require a building permit.
5. Trellises, Clotheslines. Fixtures such as trellises and clotheslines may be erected on any part of a side or rear yard so long as they meet all other requirements of this Zoning Ordinance.
6. Basketball Hoop Poles. Basketball hoop poles may be erected on any part of a rear or side yard so long as they meet all other requirements of this Zoning Ordinance and do not interfere with any public utility lines or create visibility issues. Basketball hoop poles may be installed in a front yard only if they are adjacent to a paved driveway that leads to an enclosed garage, are no closer to the property line than the midway point between the property line and the structure, and do not interfere with any public utility lines or create visibility issues.
7. Playhouses and Other Playground Equipment. Playhouses, swing sets, jungle gyms, and other similar equipment shall not be allowed in any front yard. Such items shall be considered accessory structures when permanently affixed, and side and rear yard setbacks shall apply.

167.11 **SWIMMING POOLS AND PONDS IN RESIDENTIAL DISTRICTS**. Swimming pools and ponds are permitted in any rear yard, with the following provisions:

1. Swimming pools must be located, whether permanently installed or not, at least six feet from the nearest lot line. The maximum area of any permanently constructed swimming pool should not exceed 15 percent of the total lot area.
2. All permanently constructed swimming pools must be enclosed by a fence at least four feet high and located not less than five feet and not more than 15 feet from the edge of the pool. Such fence may be solid or not, but must prevent unauthorized access to the pool area (i.e., a chain- linked fence is acceptable).
3. The maximum height of swimming pools is four feet above the finished grade level of the ground surrounding the pool.
4. Swimming pools or any portion thereof may not be located directly under any electrical service wires.
5. Temporary swimming pools, such as those not intended for permanent installation (by manufacturer’s design or otherwise), shall not be subject to the fence requirements listed in Subsection 2 above, but shall be subject to all other provisions herein. Additionally, property owners or occupants with temporary swimming pools shall make provisions to safeguard against accidents and prevent unauthorized access, including taking such actions as draining or covering the pool, erecting temporary fencing, etc.

167.12 **STRUCTURES TO HAVE ACCESS**. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

167.13 **RESIDENTIAL DWELLING STANDARDS**. In all districts permitting single-family dwellings on a single lot, the following standards shall apply to each new dwelling constructed:

1. The dwelling shall have a minimum width of not less than 24 feet.
2. The foundation shall meet one of the following construction type requirements:
3. A continuous and complete permanent perimeter foundation on the main body of the structure.
4. Slab-style, with 10-inch width by 42-inch depth perimeter frost footing.
5. Pier footing system, provided the planned footings have been designed and are constructed to be compatible with the proposed structure and the building site, and have certification to such from a structural engineer or architect.
6. Structures shall be permanently affixed to the foundation.
7. All hitches, wheels, axles, and any other types of towing devices shall be permanently removed.
8. All dwellings shall contain a minimum of 900 square feet of living space.

167.14 **FENCES, WALLS, HEDGES AND TREES**. Fences, walls (including retaining walls), hedges, and trees are permitted in all districts in accordance with the following provisions:

1. Fences shall not be allowed in any front yard. Walls, hedges, shrubs, and other plantings three feet high or less (as measured from the established street grade) may be located in a front yard.
2. Fences, walls, or hedges six feet high or less may be located on any remaining part of a lot, except that side and rear yard setbacks for accessory structures shall apply if the fence adjoins a public alley. Higher fences may be allowed by special exception by the Board of Adjustment. Fences shall be constructed with the finished side facing the neighboring property if near a lot line.
3. Snow fences (including wooden and plastic-type) shall be allowed on a temporary basis in all districts. Snow fences shall only be allowed during the months of November through April, and any snow fence left standing outside of those months shall be considered a nonconforming structure and must be removed.
4. The construction of any fence or wall shall require a building permit per Section 168.01 of this Zoning Ordinance.
5. Electric and barbed wire fences are prohibited.

Tree branches that overhang a public sidewalk shall be kept trimmed to a height of at least eight feet above the sidewalk level. Tree branches that overhang a public street shall be kept trimmed to a height of at least 15 feet above the street level.

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CHAPTER 168

ZONING - ADMINISTRATION

|  |  |
| --- | --- |
| 168.01 Building Permits | 168.04 Board of Adjustment |
| 168.02 Special Use Permits | 168.05 Duties of the Board |
| 168.03 Administration and Enforcement | 168.06 Judicial Review |

168.01 BUILDING PERMITS.

1. Application Required. No building, structure, or other physical improvement (i.e., fences, sidewalks, driveways, porches, decks, gazebo, etc.) shall be erected, constructed, moved, added to, or demolished without a building permit. Said building permit shall be approved as specified below beforeany work commences on any project. Any person commencing work without an approved permit shall be subject to penalties as defined in Section 168.03(3) in addition to the required permit application fees.
2. Application Form Approved; Information Required. Building permits in a form so approved by the City Council and the Planning and Zoning Board shall be available from the City Clerk. Every application for a permit shall be accompanied by a detailed drawing or plan drawn to scale , or a blueprint, showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of the building or structure to be erected or altered, the location of all lot/property lines, streets, and alleys, the required setbacks (based on the zoning district requirements), the existing and intended use of each building or part, the proposed number of units, the approximate cost of the project; types and kinds of material to be used. Building permit applicants are required to set stakes showing their property line boundaries, and stakes where the proposed building will be placed, prior to the inspection and before any action on the permit is taken. Such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of the Zoning Ordinance shall also be provided.
3. Fees.Fees for building/zoning permits shall be set by resolution of the City Council. The fees shall be contained in the application forms as available from the City Clerk.
4. Procedure for Application.Completed building/zoning permits shall be submitted to the City Clerk. Upon receipt of all building permit applications, the City Clerk shall review said application for completeness and forward to Planning and Zoning Board for review. Upon determination, the following shall occur:
5. If additional information is required, the application shall be returned to the applicant for clarification.
6. If the application does not meet the requirements of this Zoning Ordinance (i.e., setbacks are not sufficient), a variance or special exception may be required, in which case the applicant will be required to request a variance or special exception per the provisions of this Zoning Ordinance.
7. If the application does meet the requirements of this Zoning Ordinance, the application shall be approved by the Planning and Zoning Board or forwarded to the City Council for final review. The Planning and Zoning Board shall consult with the Clerk so that the final review shall be placed on the Council agenda when necessary and copies of the completed applications are forwarded to the Council for review prior to the meeting.
8. Final Review of Application by City Council.The City Council shall make final review of all building/zoning applications. If an application is approved, the Planning and Zoning Board shall be notified by the Clerk so that inspection of the project can be scheduled. If an application is returned for further information, the Planning and Zoning Board shall review the additional information according to Subsection 4. If an application is denied, the Council shall provide the applicant with its reasons for denial. If the initiation of a project is imminent to the extent that the applicant desires to request a special Council meeting to review the application, the Council may, by resolution, determine that there shall be an additional fee to the applicant for the special meeting. Building permits are good for one year following the date of approval.

168.02 **SPECIAL USE PERMITS.** Allowable special uses may be permitted, enlarged, or altered upon submission of an application for a special use permit to the Board of Adjustment. The Board may grant or deny a special use permit in accordance with the standards set forth herein and the intent and purposes of this Zoning Ordinance. In granting special use permits, the Board shall authorize the issuance of a special use permit and may prescribe and impose appropriate conditions and safeguards for the performance of the special use permit. Special use permits shall always have specified time limits, and therefore may also be referred to as “temporary use permits.”

1. Application Form/Information Required.A request for a special use permit for a special use or modification of a special use may be initiated by a property owner or any authorized agent by filing an application with the City Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan and such other plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use or proposed modification in relation to the standards set forth herein.
2. Meeting.Before issuance of any special use permit, the Board of Adjustment will consider the application at a meeting held at the call of the Chairperson within 30 days after the filing of the application.
3. Decisions.The concurring vote of three members of the Board of Adjustment shall be necessary to grant a special use permit. Special use permits may generally be granted by the Board for no longer than six months, unless the Board specifically grants a longer period of time or a building permit is obtained within the six-month period and construction is started.
4. Standards.No special use permit shall be granted by the Board unless the Board finds:
5. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.
6. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted or substantially diminish and impair property valued within the neighborhood.
7. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
8. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided, but that the use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustment.
9. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, and the use will not involve any activity substantially increasing the movement on public streets unless procedures are instituted to limit traffic hazards and congestion.
10. The use shall not include any activity involving the use or storage of flammable, or explosive materials unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
11. The use shall not include noise that is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled, nor vibration that is discernable without measuring instruments on any adjoining lot or property.
12. The use shall not involve any malodorous gas or matter which is discernable on any adjoining lot or property, nor any pollution of the air by fly ash, dust, vapors, or other substance which may be harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
13. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.

168.03 ADMINISTRATION AND ENFORCEMENT. This Zoning Ordinance shall be enforced by the Clerk. No building permit or certificate of occupancy shall be issued except where the provisions of this ordinance have been complied with.

1. Powers and Duties of the Clerk. The Clerk shall:
2. Be familiar with the Zoning Ordinance and all provisions contained herein.
3. Work with the Planning and Zoning Commission to review all completed building permit applications for presentation to the City Council for final approval.
4. Conduct inspections of buildings, structures, and the use of land to determine compliance with the terms of the Zoning Ordinance, including setback provisions.
5. Initiate, direct, and review from time to time a study of the provisions of the Zoning Ordinance and make report of recommendations to the Commission and Council.
6. Make available building permits and applications.
7. Receive all completed building permit applications and forward to the City Council for approval.
8. Assist the Planning and Zoning Board in arranging the inspection of buildings, structures and use of land to determine compliance with the terms of this Zoning Ordinance.
9. Maintain permanent and correct records of the Ordinance, including, but not limited to, all maps, amendments, uses on review, variances, appeals and application thereof.
10. Provide and maintain a public information service relative to all matters rising out of the Zoning Ordinance.
11. Forward to the Council and the Commission all applications for amendments to the Zoning Ordinance.
12. Transmit to the Board of Adjustment applications for appeals, variances, uses on review, or other matters on which the Board of Adjustment is required to pass under this Zoning Ordinance.
13. Penalties.Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of the Zoning Ordinance shall, upon conviction, be fined not less than $50.00 nor more than $100.00 for each offense. Each day that a violation continues shall constitute a separate offense.
14. Remedies.In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of the provisions of the Zoning Ordinance, the City Attorney, in addition to other remedies under the *Code of Iowa*, is hereby authorized to institute an action to enjoin, or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use. Along any district boundary line, any abutting side yard setback on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district.
15. Side yard setbacks may be reduced by three inches from the otherwise required least width of each side yard setback for each foot by which a lot of record at the time of enactment of this Zoning Ordinance is narrower than the minimum lot width specified for the district in which the lot is located, provided the owner of record does not own any adjoining property, and provided that no side yard shall be narrower at any point than three feet.

168.04 BOARD OF ADJUSTMENT. A board of adjustment is hereby created. The Board shall consist of five members, each to be appointed by the Council for staggered terms of five years. The Board shall elect a Chairperson from its membership, and appoint a Secretary. Matters of procedure, powers, and judicial review relating to this Board shall be in accordance with the provisions of Chapter 414 of the *Code of Iowa*. The appointing authority may remove any member of the Board for cause and after public hearing.

1. Meetings. The Board have the power to adopt rules and regulations for its own government, not inconsistent with law or with the provisions of any ordinance. Meeting shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or, in the absence of the Chairperson, the acting chairperson may administer oaths and compel attendance of witnesses.
2. Quorum. Three members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three members shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which it is required to pass under the Zoning Ordinance, or to effect any variation in the requirements of the Zoning Ordinance.
3. Assistance of Municipal Departments. The Board may call on the municipal departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

168.05 DUTIES OF THE ADJUSTMENT BOARD.

1. Appeals. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Planning and Zoning Board in the enforcement of this Zoning Ordinance or any amendment thereto. Appeals shall be reviewed according to the following provisions:
2. Procedure. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any decision of the Planning and Zoning Board. Such appeal shall be taken within 60 days by filing with the Clerk and the Board a notice of appeal specifying the grounds thereof. The Clerk shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
3. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Clerk certifies to the Board that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the Clerk from whom the appeal was taken on due cause shown.
4. Hearing. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney.
5. Special Exceptions. The Board shall hear and decide only such special exceptions as the Board is specifically authorized to pass as detailed in by the terms of this Zoning Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Zoning Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Zoning Ordinance. The Board shall review requests for special exceptions according to the following provisions:
6. Application. A written application for special exception shall be submitted to the Board indicating the section of this Zoning Ordinance under which the special exception is sought and stating the grounds on which it is requested.
7. Hearing. The Board shall fix a reasonable time for the hearing of the special exception, give public notice thereof, as well as due notice to the parties in interest and decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney. The public hearing shall be held.
8. Findings and Standards. The special exception shall not be granted unless the Board finds that it is empowered under the section of this Zoning Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest based on the following standards:

(1) The establishment, maintenance, or operation of the special exception will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare of the community.

(2) The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for a purpose already permitted or substantially diminish or impair property values within the neighborhood.

(3) The approval of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(4) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided, and adequate measures have been taken or will be taken to provide ingress and egress so designed to minimize traffic congestion on public streets.

(5) The special exception will not cause noise or other vibration which is objectionable due to volume, frequency, or beat unless muffled, damped, or otherwise controlled.

(6) The special exception will not cause any emission of malodorous gas or other pollution of the air by ash, dust, vapors, or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.

(7) The special exception will not involve any direct or reflected glare which is visible from any adjoining property or from other public street or highway.

(8) The special exception will not involve any activity that would substantially increase the burden on any public utilities or traffic congestion on a public street unless measures are taken to provide relief for the affected utility or street.

1. Variances. The Board shall authorize upon appeal, in specific cases, such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship, and so that the spirit of this Zoning Ordinance shall be observed and substantial justice done. However, no variance shall permit the use of the property for purposes not authorized within the district. The Board shall review applications for variances according to the following provisions:
2. Initiation. A property owner or any authorized agent may initiate a request for variance. The Council or Commission may also initiate a request where a City property is involved.
3. Application. A written application by a property owner or any authorized agent for variance, in form approved by the City Council, shall be filed with the Clerk. Adequate drawings and other descriptive materials essential to understanding the variance requested shall accompany the application. The application shall include evidence demonstrating the following:

(1) There are special, exceptional, or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.

(2) The special circumstances or conditions did not result from actions of the applicant.

(3) Such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.

(4) The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the Zoning Ordinance or the public interest.

1. Hearing. The Board shall fix a reasonable time for the hearing of the variance request, give public notice thereof, as well as due notice to record owners of property abutting the lot or parcel of land on which the variance is requested or record owners of any other lot or land parcel which may be affected by the proposed variance. Decisions by the Board of Adjustment as to those persons affected by the proposed variance shall not be subject to appeal. At said hearing, any party may appear in person, by agent, or by attorney. The variance may be granted, refused, or tabled subject to further investigation.
2. Findings. The Board shall make their final decision within 30 days of the hearing. The variance shall not be granted unless the Board finds beyond a reasonable doubt that the conditions detailed in the application actually exist, that reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. The Board shall, in order to grant the variance, further find that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. In granting the variance, the Board may attach conditions that it feels are necessary to protect the public interest and carry out the purposes of this Zoning Ordinance. A concurring vote of three members of the Board shall be necessary to grant a variance and the Clerk shall notify the applicant in writing of the Board’s action within seven days after the Board has rendered its decision.
3. Condition not Recurrent or Typical. No variance shall be granted unless the Board specifically finds the condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation, under an amendment of the Zoning Ordinance, for such conditions or situations.
4. No Power to Establish Variance for Nonconforming Use. The Board shall have no power to authorize a variance for the establishment of a nonconforming use where none previously existed.
5. Review by Council. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for 30 days from the date of remand.

168.06JUDICIAL REVIEW. All final administrative decisions of the Board of Adjustment shall be subject to judicial review pursuant to the provisions of Chapter 414, *Code of Iowa*, and all amendments and modifications thereof, and the rules adopted pursuant thereto.

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 SHORT TITLE. This chapter shall be known as the Subdivision Ordinance of the City of Exira Iowa.

170.02 PURPOSE. The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety, and general welfare of the citizens of the City.

(Code of Iowa, Sec. 354.1 and 364.1)

170.03 APPLICATION. Every owner who divides any original parcel of land, 40 acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel, or tract on or before the effective date of the original subdivision ordinance into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City or within two miles of the corporate limits of the City, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

170.04 AMENDMENT. When necessary to further its purpose, this chapter shall be amended in accordance with the text amendment procedure for the Zoning Ordinance by the Commission and the Council.

170.05 RECORDING OF PLAT. No subdivision plat, resubdivision plat, or street dedication within the City, or within two miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor, as provided in Section 354.9, *Code of Iowa*, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after 30 days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such 30 days.

(Code of Iowa, Sec. 354.9)

170.06 FEES ESTABLISHED. The Council shall, from time to time, establish by resolution fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the City Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Council, and as required by this chapter.

170.07 PENALTIES. Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter, until the plat thereof has been approved by the Council, and recorded as required by law, shall forfeit and pay $100.00 for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City’s right to any other remedies available to the City for the enforcement of this chapter.

170.08 BUILDING PERMIT TO BE DENIED. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been accepted by the City.

170.09 DEFINITIONS. For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows.

1. “Acquisition plat” means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Code of Iowa, Sec. 354.2[1])

1. “Aliquot part” means a fractional part of a section within the United States Public Land Survey System. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2[2])

1. “Alley” means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
2. “Auditor’s plat” means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.

(Code of Iowa, Sec. 354.2[3])

1. “Block” means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
2. “Building lines” means a line on a plat between which line and public right-of-way no building or structures may be erected.
3. “City Engineer” means the professional engineer registered in the State of Iowa designated as City Engineer by the Council or other hiring authority.
4. “Commission” means the Planning and Zoning Commission of the City.
5. “Comprehensive Plan” means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Council. Such Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
6. “Conveyance” means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

1. “Cul-de-sac” means a street having one end connecting to another street, and the other end terminated by a vehicular turnaround.
2. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.

(Code of Iowa, Sec. 354.2[6] and 355.1[2])

1. “Easement” means an authorization by a property owner for another to use a designated part of said owner’s property for a specified purpose.
2. “Flood hazard area” means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100-year flood, as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
3. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one foot.
4. “Forty-acre aliquot part” means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2[7])

1. “Government lot” means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2[9] and 355.1[3])

1. “Improvements” means changes to land necessary to prepare it for building sites, including (but not limited to) grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.
2. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2[10])

1. “Lot, corner” means a lot situated at the intersection of two streets.
2. “Lot, double frontage” means any lot that is not a corner lot that abuts two streets.
3. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2[11])

1. “Official Plat” means either an auditor’s plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2[12])

1. “Original parcel” means 40 acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before the date of the adoption of the subdivision ordinance.
2. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
3. “Parcel” means a part of a tract of land.

(Code of Iowa, Sec. 354.2[13])

1. “Performance bond” means a surety bond or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
2. “Permanent Real Estate Index Number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.

(Code of Iowa, Sec. 354.2[14])

1. “Plat” means a map drawing, or chart on which a subdivider’s plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.
2. “Plats officer” means the individual assigned the duty to administer this chapter by the Council or other appointing authority.
3. “Plat of survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Code of Iowa, Sec. 354.2[15] and 355.1[9])

1. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2[16])

1. “Resubdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
2. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
3. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
4. “Street, collector” means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
5. “Street, local” means a street primarily designed to provide access to abutting property.
6. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
7. “Subdivision” means the accumulative effect of dividing an original lot, tract, or parcel of land, as of the effective day of the subdivision ordinance, into three or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or re-platting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided. Any person not in compliance with the provisions of the subdivision definition at the time of its effective date shall not be required to comply with such provisions unless or until a new division, resubdivision or re-platting occurs following that effective date.

(Code of Iowa, Sec. 354.2[17] and 355.1[10])

1. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2[18] and 355.1[11])

1. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

(Code of Iowa, Sec. 354.2[19] and 355.1[12])

1. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2[20])

1. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

170.10 IMPROVEMENTS REQUIRED. The subdivider shall, at subdivider’s expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

170.11 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

170.12 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley, or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the Council may require.
2. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider’s expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City’s sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City. Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area. The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City, become the property of the City.
3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in accordance with plans and specifications of the City and at sewer grades established by the City. Under some circumstances the City may require, as a condition for approval of the plat, installation of a storm sewer system that is larger than necessary to meet the needs of the platted area, but necessary to complete the City storm sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area. The sewers shall, upon inspection, approval and acceptance by the City, become the property of the City. In the storm sewer design phase, consideration shall be given to alternatives and principles of storm water management, or the provisions of a storm water management plan if such plan has been adopted by the City.
4. Water Main System. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City’s existing water mains. Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area. The water mains shall, upon inspection, approval, and acceptance by the City, become the property of the City.
5. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area; the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking area; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the City Engineer or director of the electric utility, as appropriate.

170.13 EASEMENTS REQUIRED.

1. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than 10 feet in width shall be granted by the owner along rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across, lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.
2. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at said subdivider’s expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

170.14 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds satisfactory to the City, so as to insure that for a period of one year from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

170.15 ALTERNATIVE SYSTEMS FOR SEWER OR WATER. Where connection to the City sewer or water system cannot reasonably be made the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health safety and welfare, and shall meet all requirements of State, County, or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a waiver of assessment protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

170.16 STANDARDS PRESCRIBED. The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

(Code of Iowa, Sec. 364.1)

170.17 LAND SUITABILITY. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify, or withdraw its determination regarding such unsuitability.

170.18 LANDS SUBJECT TO FLOODING. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the Zoning Ordinance for the zone in which the lot is located. Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

1. Included within individual lots in the subdivision, subject to the limitations of this section.
2. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.
3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

170.19 PLAT TO CONFORM TO COMPREHENSIVE PLAN. The arrangement, character, extent, width, grade, and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to a Major Street Plan, a Sanitary Sewer System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the City.

(Code of Iowa, Sec. 354.8)

170.20 CONSTRUCTION STANDARDS FOR IMPROVEMENTS. In addition to the standards set forth in this chapter, the City Engineer shall from time to time prepare, and the Council shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements. Upon adoption by the Council by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

170.21 STREET STANDARDS. The following standards shall apply to all streets to be located within the subdivision:

1. Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Comprehensive Plan or the Street Plan, the plat shall provide for such street.
2. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.
3. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.
4. Street right-of-way widths and pavement widths shall be as specified in the Comprehensive Plan, the Streets Plan, or technical standards for public improvements.
5. Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.
6. Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.
7. Street jogs with centerline offsets of less than 125 feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.
8. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than 60 degrees.
9. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of- way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.
10. Dead end streets are prohibited, except where a street is planned to continue past the subdivider’s property, a temporary dead end may be allowed.
11. Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted. Culs-de-sac should not exceed 500 feet in length unless a greater length is unavoidable. Culs-de-sac shall terminate with a turnaround having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The right-of-way width of the straight portion of such streets shall be a minimum of 50 feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than 20 feet.
12. In general, alleys shall be permitted in residential areas and required in commercial and industrial areas with normal street frontage. The Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
13. Dead end alleys are prohibited, unless provided with a turnaround of a minimum right-of-way diameter of 100 feet.
14. The width of the alley shall be 20 feet.
15. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.
16. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Council, be made a requirement of the plat.
17. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Council.
18. Private streets, not dedicated to the City, shall be avoided. The Council may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

170.22 BLOCK AND LOT STANDARDS. The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions:

1. No residential block shall be longer than 1,320 feet or shorter than 300 feet measured from street centerline to street centerline. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.
2. In blocks over 700 feet in length, the Council may require a public way or an easement at least 10 feet in width, at or near the center of the block, for use by pedestrians.
3. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the Zoning Ordinance.
4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.
5. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zone in which the lot is located.
6. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least 35 feet measured as a straight line between the two front lot corners.
7. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.
8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Council, a variation to this provision will provide a better street and lot layout.
9. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the Zoning Ordinance, oriented to either street.
10. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.
11. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drain field. No subdivision to be served by septic systems shall be approved by the Council until percolation tests have been performed and the results of said tests have been provided to, and reported on, by the City Engineer.

170.23 PARKS AND OPEN SPACE. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space; provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefiting from such open space.

170.24 PARKS AND SCHOOL SITES RESERVED. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

(Code of Iowa, Sec. 354.6[2])

1. Proposed park sites shall be reserved for three years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three years, the subdivider may then amend the final plat.
2. Proposed school sites shall be reserved for three years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three years, the subdivider may then amend the final plat.

170.25 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the Plats Officer. The conference should be attended by the Plats Officer and such other City or Utility representative as is deemed desirable; and by the owner and said owner’s engineer and/or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

170.26 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

170.27 PRESENTATION TO COMMISSION OR COUNCIL. The subdivider may present the sketch plan to the Commission and Council for review, prior to incurring significant costs preparing the preliminary or final plat.

170.28 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. A minor subdivision is any subdivision that contains not more than four lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel.
2. A major subdivision is any subdivision that, in the opinion of the Council, does not for any reason meet the definition of a minor subdivision.

170.29 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the City plats and other information as required by this chapter. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor’s plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

170.30 REQUIREMENTS OF THE PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk four copies of the preliminary plat, drawn at a scale of one inch equals 100 feet or larger. Sheet size shall not exceed 24 inches by 36 inches. Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked “Preliminary Plat” and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.

(Code of Iowa, Sec. 355.8[6])

1. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the County. The Plats Officer shall verify with the County Auditor that the proposed subdivision name is not duplicating an existing subdivision name in the County.

(Code of Iowa, Sec. 354.6[2] and 355.8[5])

1. The name and address of the owner and the name, address and profession of the person preparing the plan.
2. A key map showing the general location of the proposed subdivision in relation to surrounding development.
3. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within 200 feet of the subdivision boundary shall be attached.

(Code of Iowa, Sec. 355.8[18])

1. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
2. Existing and proposed zoning of the proposed subdivision and adjoining property.
3. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater.
4. The legal description of the area being platted.
5. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
6. The layout, numbers and approximate dimensions of proposed lots.
7. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
8. The proposed names for all streets in the area being platted. The Plats Officer shall verify that the proposed street names do not duplicate existing street names in the City unless such names are a continuation of an existing street.
9. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
10. Proposed easements, showing locations, widths, purposes and limitations.
11. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Any other pertinent information, as necessary.
14. The fee, as required by this chapter.

170.31 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.

1. The City Clerk, upon receipt of four copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat to the Plats Officer.
2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Commission.
3. The Commission shall examine the plat and the report of the City Engineer, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Comprehensive Plan and other duly adopted plans of the City. The Commission shall, within 45 days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the Council. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.
4. The Council shall examine the plat, the report of the City Engineer, the report of the Commission, and such other information as it deems necessary or desirable. Upon such examination, the Council shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Comprehensive Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the Council may approve, subject to conditions, or disapprove the plat. If the decision of the Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Council, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Council shall be taken within 60 days of the filing of the plat with the City Clerk.

170.32 DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the Council shall be valid for a period of one year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the Council.

170.33 AUTHORIZATION TO INSTALL IMPROVEMENTS. The approval of the preliminary plat shall constitute authorization by the Council for the installation of improvements as required by this chapter, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvement have been submitted to, and approved in writing by, the City Engineer.

170.34 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

170.35 PERFORMANCE BOND PERMITTED. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the City, guaranteeing that improvements not completed shall be completed within a period of two years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.

170.36 REQUIREMENT OF THE FINAL PLAT. The subdivider shall, within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, four copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision or an auditor’s plat as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. The final plat shall be drawn at a scale of one inch equals 100 feet or larger. Sheet size shall be no greater than 18 inches by 24 inches or smaller than eight and one-half inches by 11 inches and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin. The final plat shall be clearly marked "Final Plat" and show the following:

1. The name of the subdivision.

(Code of Iowa, Sec. 354.6[2] and 355.8[5])

1. Name and address of the owner and subdivider.
2. Scale, and a graphic bar scale, north arrow and date on each sheet.

(Code of Iowa, Sec. 355.8[4] and [6])

1. All monuments to be of record, as required by Chapter 355, *Code of Iowa*.

(Code of Iowa, Sec. 355.8[7])

1. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.

(Code of Iowa, Sec. 355.8[12])

1. All distance, bearing, curve, and other survey data, as required by Chapter 355, *Code of Iowa*.

(Code of Iowa, Sec. 355.8)

1. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

(Code of Iowa, Sec. 355.8[18])

1. Street names and clear designation of public alleys.

(Code of Iowa, Sec. 354.6[2])

1. Block and lot numbers.

(Code of Iowa, Sec. 354.6[2])

1. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.

(Code of Iowa, Sec. 354.6[2])

1. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

(Code of Iowa, Sec. 355.8[19])

1. All interior excepted parcels, clearly indicated and labeled, “not a part of this plat.”
2. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

(Code of Iowa, Sec. 354.6[2])

1. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

(Code of Iowa, Sec. 355.8[15])

1. A statement by a registered land surveyor that the plat conforms to Section 409A.8 of the *Code of Iowa*, was prepared by the surveyor or under the surveyor’s direct personal supervision, signed and dated by the surveyor and bearing the surveyor’s Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

(Code of Iowa, Sec. 355.8[21])

170.37 ATTACHMENTS TO THE FINAL PLAT. The following shall be attached to and accompany any final plat:

1. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
2. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. 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.
3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
4. 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*.
5. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
6. A statement by the Auditor approving the name or title on the subdivision plat.
7. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, *Code of Iowa*.
8. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, “as built” plans for all improvements shall have been provided to the City Engineer. In lieu thereof, the City Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.
9. Where the improvements have been installed, a resolution accepting and approving such improvements along with the maintenance bond required by this chapter.
10. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.
11. The applicable fee, if any.

170.38 PROCEDURES FOR THE REVIEW OF FINAL PLATS.

1. The City Clerk, upon receipt of four copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Plats Officer.
2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Council.
3. The Plats Officer and the City Engineer shall examine the plat as to its compliance with Section 409A.8 of the *Code of Iowa*, the ordinances and standards of the City, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.
4. If the plat is found to substantially conform to the preliminary plat as approved, the final plat shall be forwarded to the Council for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Commission for review, prior to review by the Council. The Commission shall then review the plat and shall forward a written recommendation thereon to the Council within 45 days of the filing of the plat with the City Clerk. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefor shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.
5. Upon receipt of the plat and written reports thereon, the Council shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Council shall approve the plat, and shall cause its approval to be entered on the plat as required by law.
6. Action on the final plat by the Council shall be taken within 60 days of the date of filing of the plat with the City Clerk. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Council and such decision shall be provided to the subdivider.

170.39 VARIANCES. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided, however, that such variance modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Council may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

170.40 EXTRATERRITORIAL REVIEW AGREEMENT. The City may negotiate an extraterritorial review agreement between Audubon County for the standards and conditions applied by the City for review and approval of a subdivision as provided in Section 354.9 of the *Code of Iowa*. The City shall apply the same standards and conditions for review and approval of a subdivision in the extraterritorial review area as established in Section 170.05 of this Code of Ordinances. The City may, by resolution, waive its right to review the subdivision or waive the requirement of any of its standards or conditions for approval of the subdivision in the extraterritorial area after a recommendation to do so from the Commission. Such resolution shall be certified and recorded with the plat. Procedures for certifying approval of subdivisions in the extraterritorial area of the City shall be the same as those established for other subdivisions within the City unless waived by the Council.

(Code of Iowa, Sec. 354.8 and 354.9)

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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 EXIRA, 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 Exira, Iowa:

SECTION 1.  NEW SECTION. The Code of Ordinances of the City of Exira, 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 EXIRA, 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 Exira, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Exira, 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 EXIRA, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

**BE IT ENACTED** by the City Council of the City of Exira, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Exira, 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 EXIRA, IOWA**

Be It Enacted by the City Council of the City of Exira, Iowa:

SECTION 1. The *(location or legal description of street or alley)* to Exira, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and approved this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Third Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City of Exira, 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 Exira, 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 Exira, 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 Exira, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(enforcement officer)

RESOLUTION AND ORDER   
REGARDING DANGEROUS BUILDING

BE IT RESOLVED, by the City Council of the City of Exira, 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 Exira, 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 Exira, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Street Address)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Iowa

You are hereby notified that the City Council of Exira, 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 Exira, Iowa

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Exira, 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

1. † **EDITOR’S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3. [↑](#footnote-ref-1)
2. † **EDITOR’S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14. [↑](#footnote-ref-2)
3. † **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. [↑](#footnote-ref-3)
4. † **EDITOR’S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, paragraph 5a, of the *Code of Iowa,* are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship. [↑](#footnote-ref-4)
5. † **EDITOR’S NOTE:** Ordinance No. 00-03 adopting a natural gas franchise for the City, was passed and adopted on July 10, 2000. [↑](#footnote-ref-5)
6. † **EDITOR’S NOTE:** Ordinance No. 00-02 adopting an electric franchise for the City, was passed and adopted on July 10, 2000. [↑](#footnote-ref-6)
7. † **EDITOR’S NOTE:** Ordinance No. 217 adopting a cable television franchise for the City, was passed and adopted on September 11, 1995. Ordinance No. 10-03, which granted a renewal of the nonexclusive franchise with Marne and Elk Horn Telephone Company for the location and operation of a cable television system within the City, was adopted on September 13, 2010. The franchise was extended for a term of 25 years. [↑](#footnote-ref-7)
8. † **EDITOR’S NOTE:** See also Section 136.04 relating to property owner’s responsibility for maintenance of sidewalks. [↑](#footnote-ref-8)
9. † **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. [↑](#footnote-ref-9)