

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

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# **GENERAL CODE PROVISIONS**

## **TABLE OF CONTENTS**

<b>CHAPTER 1 - CODE OF ORDINANCES .....</b>	<b>1</b>
<b>CHAPTER 2 - CHARTER .....</b>	<b>9</b>
<b>CHAPTER 3 - MUNICIPAL INFRACTIONS .....</b>	<b>11</b>
<b>CHAPTER 5 - OPERATING PROCEDURES.....</b>	<b>21</b>
<b>CHAPTER 6 - CITY ELECTIONS .....</b>	<b>29</b>
<b>CHAPTER 7 - FISCAL MANAGEMENT.....</b>	<b>35</b>
<b>CHAPTER 8 - URBAN RENEWAL.....</b>	<b>45</b>
<b>CHAPTER 9 - URBAN REVITALIZATION.....</b>	<b>47</b>

# **ADMINISTRATION, BOARDS AND COMMISSIONS**

## **TABLE OF CONTENTS**

<b>CHAPTER 15 - MAYOR.....</b>	<b>71</b>
<b>CHAPTER 16 - MAYOR PRO TEM .....</b>	<b>75</b>
<b>CHAPTER 17 - CITY COUNCIL.....</b>	<b>77</b>
<b>CHAPTER 18 - CITY CLERK .....</b>	<b>83</b>
<b>CHAPTER 19 - CITY TREASURER.....</b>	<b>87</b>
<b>CHAPTER 20 - CITY ATTORNEY .....</b>	<b>89</b>
<b>CHAPTER 21 - LIBRARY BOARD OF TRUSTEES .....</b>	<b>91</b>
<b>CHAPTER 22 - PLANNING AND ZONING COMMISSION .....</b>	<b>99</b>
<b>CHAPTER 23 - PARK COMMISSION.....</b>	<b>101</b>
<b>CHAPTER 24 - ELECTRIC UTILITY BOARD OF TRUSTEES.....</b>	<b>105</b>
<b>CHAPTER 25 - AQUATIC CENTER BOARD.....</b>	<b>109</b>

# **POLICE, FIRE AND EMERGENCIES**

## **TABLE OF CONTENTS**

<b>CHAPTER 30 - POLICE DEPARTMENT.....</b>	<b>145</b>
<b>CHAPTER 35 - FIRE DEPARTMENT.....</b>	<b>151</b>
<b>CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS .....</b>	<b>155</b>

# **PUBLIC OFFENSES**

## **TABLE OF CONTENTS**

<b>CHAPTER 40 - PUBLIC PEACE.....</b>	<b>185</b>
<b>CHAPTER 41 - PUBLIC HEALTH AND SAFETY .....</b>	<b>193</b>
<b>CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY .....</b>	<b>201</b>
<b>CHAPTER 43 - DRUG PARAPHERNALIA.....</b>	<b>211</b>
<b>CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION .....</b>	<b>225</b>
<b>CHAPTER 46 - MINORS .....</b>	<b>227</b>

# **NUISANCES AND ANIMAL CONTROL**

## **TABLE OF CONTENTS**

<b>CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....</b>	<b>245</b>
<b>CHAPTER 51 - JUNK AND JUNK VEHICLES .....</b>	<b>255</b>
<b>CHAPTER 55 - ANIMAL PROTECTION AND CONTROL .....</b>	<b>275</b>
<b>CHAPTER 56 - VICIOUS ANIMALS .....</b>	<b>283</b>

# **TRAFFIC AND VEHICLES**

## **TABLE OF CONTENTS**

<b>CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE .....</b>	<b>301</b>
<b>CHAPTER 61 - TRAFFIC CONTROL DEVICES .....</b>	<b>305</b>
<b>CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....</b>	<b>307</b>
<b>CHAPTER 63 - SPEED REGULATIONS .....</b>	<b>321</b>
<b>CHAPTER 64 - TURNING REGULATIONS .....</b>	<b>325</b>
<b>CHAPTER 65 - STOP OR YIELD REQUIRED.....</b>	<b>327</b>
<b>CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS .....</b>	<b>345</b>
<b>CHAPTER 67 - PEDESTRIANS .....</b>	<b>347</b>
<b>CHAPTER 68 - ONE-WAY TRAFFIC .....</b>	<b>349</b>
<b>CHAPTER 69 - PARKING REGULATIONS .....</b>	<b>351</b>
<b>CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES .....</b>	<b>371</b>
<b>CHAPTER 75 - ALL-TERRAIN VEHICLES AND SNOWMOBILES.....</b>	<b>381</b>
<b>CHAPTER 76 - BICYCLE REGULATIONS.....</b>	<b>385</b>
<b>CHAPTER 77 – GOLF CARTS.....</b>	<b>387</b>
<b>CHAPTER 80 - ABANDONED VEHICLES .....</b>	<b>401</b>



# **WATER**

## **TABLE OF CONTENTS**

<b>CHAPTER 90 - WATER SERVICE SYSTEM .....</b>	<b>425</b>
<b>CHAPTER 91 - WATER METERS .....</b>	<b>431</b>
<b>CHAPTER 92 - WATER RATES .....</b>	<b>435</b>

# **SANITARY SEWER**

## **TABLE OF CONTENTS**

<b>CHAPTER 95 - SANITARY SEWER SYSTEM.....</b>	<b>451</b>
<b>CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS .....</b>	<b>465</b>
<b>CHAPTER 97 - USE OF PUBLIC SEWERS .....</b>	<b>473</b>
<b>CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS .....</b>	<b>483</b>
<b>CHAPTER 99 - SEWER SERVICE CHARGES.....</b>	<b>485</b>
<b>CHAPTER 100 - STORM WATER MANAGEMENT.....</b>	<b>501</b>

# **GARBAGE AND SOLID WASTE**

## **TABLE OF CONTENTS**

<b>CHAPTER 105 - SOLID WASTE CONTROL .....</b>	<b>525</b>
<b>CHAPTER 106 - COLLECTION OF SOLID WASTE .....</b>	<b>531</b>

# **FRANCHISES AND OTHER SERVICES**

## **TABLE OF CONTENTS**

<b>CHAPTER 110 - NATURAL GAS FRANCHISE .....</b>	<b>551</b>
<b>CHAPTER 111 - CEMETERY .....</b>	<b>561</b>

# **REGULATION OF BUSINESS AND VOCATIONS**

## **TABLE OF CONTENTS**

<b>CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS .....</b>	<b>641</b>
<b>CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....</b>	<b>645</b>
<b>CHAPTER 122 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS.....</b>	<b>649</b>
<b>CHAPTER 123 - HOUSE MOVERS.....</b>	<b>655</b>
<b>CHAPTER 124 - JUNK DEALERS AND JUNK YARDS .....</b>	<b>659</b>

# **STREETS AND SIDEWALKS**

## **TABLE OF CONTENTS**

<b>CHAPTER 135 - STREET USE AND MAINTENANCE.....</b>	<b>685</b>
<b>CHAPTER 136 - SIDEWALK REGULATIONS .....</b>	<b>693</b>
<b>CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....</b>	<b>699</b>
<b>CHAPTER 138 - STREET GRADES .....</b>	<b>701</b>
<b>CHAPTER 139 - NAMING OF STREETS.....</b>	<b>703</b>
<b>CHAPTER 140 - CONTROLLED ACCESS FACILITIES .....</b>	<b>705</b>

# **BUILDING AND PROPERTY REGULATIONS**

## **TABLE OF CONTENTS**

<b>CHAPTER 145 - DANGEROUS BUILDINGS.....</b>	<b>725</b>
<b>CHAPTER 146 - MANUFACTURED AND MOBILE HOMES.....</b>	<b>729</b>
<b>CHAPTER 147 - BUILDING PERMITS.....</b>	<b>735</b>
<b>CHAPTER 150 - BUILDING NUMBERING.....</b>	<b>751</b>
<b>CHAPTER 151 - TREES.....</b>	<b>753</b>
<b>CHAPTER 160 - FLOOD PLAIN MANAGEMENT.....</b>	<b>775</b>

# **ZONING AND SUBDIVISION**

## **TABLE OF CONTENTS**

<b>CHAPTER 165 - ZONING REGULATIONS.....</b>	<b>801</b>
<b>CHAPTER 170 - SUBDIVISION REGULATIONS.....</b>	<b>975</b>



# INDEX TO CODE OF ORDINANCES

	CHAPTER OR SECTION NUMBER
<b>ABANDONED BUILDINGS</b> .....	145
<b>ABANDONED COMMUNICATION TOWERS</b> .....	165.05(20)
<b>ABANDONED OR UNATTENDED REFRIGERATORS</b> .....	41.08
<b>ABANDONED UTILITY CONNECTIONS</b>	
On-Site Wastewater Treatment and Disposal Systems .....	98.07
Water Service .....	90.04
<b>ABANDONED VEHICLES</b> .....	80
<i>See also</i> Impounding Vehicles .....	70.06
<i>See also</i> State Code Traffic Regulations .....	62.01
<b>ABANDONMENT OF CATS AND DOGS</b> .....	55.04
<b>ABATEMENT OF NUISANCES</b> .....	50
<b>ACCESS CONTROLLED</b> .....	140
<b>ACCOUNTING RECORDS</b> .....	7.07
<b>AIR POLLUTION</b> .....	50.02(8)
<i>See also</i> <b>ENVIRONMENTAL VIOLATION</b> .....	3.02
<b>AIRPORT AIR SPACE</b> .....	50.02(11)
<b>ALCOHOL</b>	
Consumption and Intoxication .....	45
Open Containers in Motor Vehicles.....	62.01(49) and (50)
Liquor Licenses and Wine and Beer Permits .....	120
<b>ALL-TERRAIN VEHICLES AND SNOWMOBILES</b> .....	75
<b>AMUSEMENT DEVICES</b> .....	120.06
<b>ANGLE PARKING</b> .....	69.03 and 69.04
<b>ANIMAL PROTECTION AND CONTROL</b>	
Abandonment of Cats and Dogs.....	55.04
Animal Neglect .....	55.02
Annoyance or Disturbance .....	55.08
At Large Prohibited.....	55.06
Confinement of Animals Suspected of Having Rabies .....	55.12
Damage or Interference by Animals .....	55.07
Duty to Report Attacks.....	55.11
Impounding .....	55.13 - 55.15
Livestock .....	55.03 and 55.05
Pet Awards Prohibited.....	55.16
Rabies Vaccination.....	55.10
Sanitation .....	55.09
Vicious Animals .....	56

	CHAPTER OR SECTION NUMBER
<b>ANTENNA AND RADIO WIRES</b> .....	41.09
<b>APPOINTMENTS</b>	
By Council .....	17.05
By Mayor .....	15.03
<b>AQUATIC BOARD</b> .....	25
<b>ASSAULT</b> .....	40.01
<b>ATTORNEY FOR CITY</b> .....	20
<b>AUTOMOBILE REPAIR ON PUBLIC PROPERTY</b> .....	69.05(2)
<b>AWNINGS</b> .....	136.12
<b>BARBED WIRE AND ELECTRIC FENCES</b> .....	41.10
<b>BEER, LIQUOR, AND WINE CONTROL</b>	
<i>See</i> <b>ALCOHOL</b>	
<b>BICYCLES</b> .....	76
<i>See also</i> Clinging to Vehicles .....	62.04
<i>See also</i> State Code Traffic Regulations .....	62.01
<b>BILLBOARDS</b> .....	50.02(6) and 62.06
<b>BONDS</b>	
City Officials .....	5.02
House Movers .....	123.04
Public Bonds, Records of .....	18.08(3)
Streets .....	135.09(4)
Transient Merchants .....	122.06
<b>BUDGET</b>	
Amendments .....	7.06
Preparation .....	7.05
<b>BUILDING MOVERS</b> .....	123
<b>BUILDING NUMBERING</b> .....	150
<b>BUILDING PERMITS</b> .....	147
<b>BUILDING SEWERS AND CONNECTIONS</b> .....	96
<b>BUILDINGS, DANGEROUS</b> .....	145
<b>BULKY RUBBISH</b> .....	106.05

	CHAPTER OR SECTION NUMBER
<b>BURNING</b>	
Burning on Streets and Alleys.....	135.08
Fires or Fuel on Sidewalks .....	136.15
Open Burning Restricted.....	105.05
Yard Waste.....	105.06
<b>BUSINESS DISTRICT</b> .....	60.02(1)
<i>See also:</i>	
Bicycles on Sidewalks.....	76.08(1)
Sidewalks .....	136.08(5)(B)
<b>CAR WASHING ON STREETS</b> .....	135.07
<b>CEMETERY</b> .....	111
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits).....	63.03
<b>CHARTER</b> .....	2
<b>CIGARETTES AND TOBACCO</b>	
Permits.....	121
Possession by Minors.....	46.02
<b>CITY ATTORNEY</b> .....	20
<b>CITY CHARTER</b> .....	2
<b>CITY COUNCIL</b>	
Appointments by .....	17.05
Compensation.....	17.06
Meetings.....	5.06 and 17.04
Number and Term .....	2.04 and 17.01
Powers and Duties.....	17.02 and 17.03
<b>CITY ELECTIONS</b> .....	6
<b>CITY FUNDS</b> .....	18.14
<b>CITY OFFICERS AND EMPLOYEES</b>	
Appointments by Council .....	17.05
Appointments by Mayor .....	15.03
Bonds .....	5.02
City Attorney.....	20
City Clerk.....	18
City Council .....	17
City Treasurer.....	19
Conflict of Interest .....	5.07
Discretionary Powers .....	1.13
Extension of Authority .....	1.07
Fire Chief .....	35

---

CHAPTER OR SECTION  
NUMBER

---

**CITY OFFICERS AND EMPLOYEES (continued)**

Gifts to.....	5.11
Harassment of.....	41.05
Indemnity of.....	1.04
Mayor.....	15
Oath of Office .....	5.01
Police Chief.....	30
Powers and Duties.....	5.03
Removal of an Officer's Communication or Control Device .....	41.07
Removal of Appointed Officers and Employees.....	5.09
Resignations .....	5.08
Sewer Superintendent.....	95.04
Vacancies .....	5.10
Water Superintendent.....	90.02

**CITY OPERATING PROCEDURES .....** 5**CITY POWERS.....** 1.03**CITY SEAL .....** 18.13**CIVIL CITATIONS.....** 3.04**CLINGING TO VEHICLE .....** 62.04**CODE OF IOWA TRAFFIC REGULATIONS .....** 62.01**CODE OF ORDINANCES**

Altering .....	1.10
Amendments to .....	1.08
Catchlines and Notes.....	1.09
Definitions of Terms .....	1.02
Rules of Construction.....	1.06
Validity.....	1.11

**COMPENSATION**

Changes in.....	17.02(7)
City Attorney.....	20.01
City Clerk.....	18.01
Council Members .....	17.06
Mayor.....	15.04
Mayor Pro Tem .....	16.04
Set by Council.....	17.02(7)
Treasurer .....	19.02

	CHAPTER OR SECTION NUMBER
<b>CONFLICT OF INTEREST .....</b>	<b>5.07</b>
<b>CONTRACT LAW ENFORCEMENT .....</b>	<b>30.11</b>
<b>CONTRIBUTING TO DELINQUENCY.....</b>	<b>46.03</b>
<b>CONTROLLED ACCESS FACILITIES.....</b>	<b>140</b>
<b>COUNCIL.....</b>	<b>17</b>
<b>COUNCIL MEETINGS .....</b>	<b>17.04</b>
<b>CRIMINAL MISCHIEF.....</b>	<b>42.02</b>
<b>CROSSWALKS</b>	
Designation and Maintenance .....	61.02
Parking Prohibited in .....	69.06(1)
Pedestrians in Crosswalks .....	65.07
<b>CURFEW .....</b>	<b>46.01</b>
<b>DANGEROUS BUILDINGS.....</b>	<b>145</b>
<b>DANGEROUS TOYS (THROWING AND SHOOTING) .....</b>	<b>41.12</b>
<b>DANGEROUS SUBSTANCES, DISTRIBUTING OF .....</b>	<b>41.01</b>
<b>DEFACING PROCLAMATIONS AND NOTICES .....</b>	<b>42.03</b>
<b>DEPOSIT FOR UTILITIES.....</b>	<b>92.09</b>
<b>DEPOSITS AND INVESTMENTS .....</b>	<b>7.03(2)</b>
<b>DESTRUCTION OF PROPERTY .....</b>	<b>42.02</b>
<b>DISCRETIONARY POWER OF CITY OFFICERS AND EMPLOYEES.....</b>	<b>1.13</b>
<b>DISORDERLY CONDUCT .....</b>	<b>40.03</b>
<b>DOGS .....</b>	<b>55</b>
<i>See also ANIMALS</i>	
<b>DRIVEWAY CULVERTS.....</b>	<b>135.13</b>
<b>DRUG PARAPHERNALIA .....</b>	<b>43</b>
<b>DUMPING PROHIBITED.....</b>	<b>105.08</b>
<b>DUTCH ELM DISEASE .....</b>	<b>50.02(10)</b>

---

	CHAPTER OR SECTION NUMBER
<b>EASEMENTS, USE OF .....</b>	<b>95.09</b>
<b>ELECTIONS</b>	
Duties of Clerk .....	18.12
Procedures .....	6
<b>ELECTRIC UTILITY BOARD OF TRUSTEES .....</b>	<b>24</b>
<b>ENVIRONMENTAL VIOLATIONS .....</b>	<b>3.02</b>
<b>EXCAVATIONS</b>	
Sewer .....	96.05
Streets .....	135.09
Water .....	90.09
<b>EXTENSION OF AUTHORITY .....</b>	<b>1.07</b>
<b>FAILURE TO DISPERSE.....</b>	<b>40.05</b>
<b>FALSE IDENTIFICATION INFORMATION .....</b>	<b>41.03</b>
<b>FALSE REPORTS</b>	
Of Catastrophe .....	40.03(5)
To Public Safety Entities.....	41.02
<b>FENCES</b>	
Barbed Wire and Electric Fences .....	41.10
Blocking Public and Private Ways.....	50.02(5)
Zoning .....	165.03(14)
<b>FIGHTING .....</b>	<b>40.03(1)</b>
<b>FINANCE OFFICER.....</b>	<b>7.02</b>
<b>FINANCES .....</b>	<b>7</b>
<b>FINANCIAL REPORTS .....</b>	<b>7.08</b>
<b>FIRE DEPARTMENT .....</b>	<b>35</b>
<b>FIRE HAZARD CONDITIONS</b>	
Health and Fire Hazard .....	105.04
Storing of Flammable Junk .....	50.02(7)
Unsafe Buildings .....	145
Weeds and Brush.....	50.02(9)
<b>FIRE SPRINKLER SYSTEMS CONNECTIONS.....</b>	<b>91.03</b>

	CHAPTER OR SECTION NUMBER
<b>FIRES</b>	
On Sidewalks .....	136.15
Recreational.....	105.05(5)
<b>FIREWORKS</b> .....	41.14
<b>FISCAL MANAGEMENT</b> .....	7
<b>FLAG, DISRESPECT OF</b> .....	40.03(6)
<b>FLOOD PLAIN REGULATIONS</b> .....	160
<b>FORM OF GOVERNMENT</b> .....	2.02
<b>FRAUD</b> .....	42.05
<b>FUNDS</b> .....	7.04
<b>FUNERAL SERVICE, DISRUPTION OF</b> .....	40.03(8)
<i>See also</i> State Code Traffic Regulations .....	62.01
<b>GANG ACTIVITY</b> .....	50.02(12)
<b>GARBAGE COLLECTION AND DISPOSAL</b> .....	105 and 106
<b>GAS FRANCHISE</b> .....	110
<b>GIFTS TO CITY OFFICIALS</b> .....	5.11
<b>GOLF CARTS</b> .....	77
<b>GRADES OF STREETS, ALLEYS AND SIDEWALKS</b> .....	138
<b>HANDICAPPED PARKING</b>	
<i>See</i> Persons with Disabilities Parking .....	69.07
<b>HARASSMENT</b>	
Of Other Persons .....	40.02
Of Public Officers and Employees .....	41.05
<b>HAZARDOUS SUBSTANCE SPILLS</b> .....	36
<b>HAZARDOUS WASTE</b> .....	105.09
<i>See also</i> Prohibited and Restricted Discharges to Sewer System.....	97.02 and 97.03
<b>HITCHHIKING</b> .....	67.02
<b>HOUSE MOVERS</b> .....	123
<b>HOUSE NUMBERS</b> .....	150
<b>HOUSES OF ILL FAME</b> .....	50.02(12)
<b>IMPOUNDING</b>	
Animals .....	55.13
Vehicles.....	70.06 and 80.02

	CHAPTER OR SECTION NUMBER
<b>INDEMNITY AGREEMENT; PERMITS AND LICENSES .....</b>	<b>1.04</b>
<b>INSURANCE REQUIREMENTS</b>	
Firefighters .....	35
Fireworks .....	41.14
House Movers .....	123.05
Street Excavations .....	135.09(5)
<b>INTERFERENCE WITH OFFICIAL ACTS .....</b>	<b>41.06</b>
<b>INTERMENT RIGHTS .....</b>	<b>115</b>
<b>INVESTMENTS AND DEPOSITS .....</b>	<b>7.03(2)</b>
<b>JUNK AND JUNK VEHICLES .....</b>	<b>51</b>
<i>See also</i> Storing of Flammable Junk .....	50.02(7)
<b>JUNK DEALERS AND JUNK YARDS .....</b>	<b>124</b>
<b>LEGAL OPINIONS .....</b>	<b>20.06</b>
<b>LIBRARY .....</b>	<b>21</b>
<b>LICENSES</b>	
Drivers .....	62.01
Liquor .....	120
Peddlers, Solicitors and Transient Merchants .....	122
<i>See also</i> Issuance of Licenses and Permits .....	18.10
<i>See also</i> <b>PERMITS</b>	
<b>LIQUOR LICENSES AND WINE AND BEER PERMITS .....</b>	<b>120</b>
<b>LITTERING</b>	
Debris on Sidewalks .....	136.17
Placing Debris on Streets .....	135.03
Solid Waste Control .....	105.07
<b>LIVESTOCK .....</b>	<b>55.03 and 55.05</b>
<b>LOAD AND WEIGHT RESTRICTIONS, VEHICLES .....</b>	<b>66</b>
<b>LOITERING .....</b>	<b>40.04</b>
<b>MANUFACTURED AND MOBILE HOMES .....</b>	<b>146</b>
<i>See also:</i>	
Factory-Built Homes (Flood Plain Regulations) .....	160.09(5)
Mobile Homes (Zoning Regulations) .....	165.13



	CHAPTER OR SECTION NUMBER
<b>MAYOR</b>	
Appointments .....	15.03
Compensation.....	15.04
Powers and Duties .....	15.02
Term of Office.....	15.01
Voting.....	15.05
<i>See also</i> <b>CITY OFFICERS AND EMPLOYEES</b>	
<b>MAYOR PRO TEM</b> .....	16
<b>MEETINGS</b>	
Council Meetings .....	17.04
Procedures for Notice and Conduct of .....	5.06
Publication of Minutes of Council Meetings .....	18.03
<b>METERS, WATER</b> .....	91
<b>MINORS</b> .....	46
<i>See also:</i>	
Amusement Devices.....	120.06
Employment for Serving of Alcohol.....	120.05(4)
Persons Under Legal Age.....	45.01
Persons Under Legal Age.....	121.07
<b>MOBILE HOMES</b> .....	146
<i>See also</i> <b>ZONING REGULATIONS</b> .....	165.13
<b>MUNICIPAL INFRACTIONS</b> .....	3
<i>See also</i> <b>MUNICIPAL INFRACTION ABATEMENT PROCEDURE</b> .....	50.07
<b>NAMING OF STREETS</b> .....	139
<b>NATURAL GAS FRANCHISE</b> .....	110
<b>NOISE</b>	
Annoyance or Disturbance (Barking Dogs) .....	55.08
Disorderly Conduct .....	40.03(2) and 40.03(8)
Quiet Zones .....	62.05
<b>NOMINATIONS FOR ELECTIVE OFFICES</b> .....	6
<b>NUISANCE ABATEMENT PROCEDURE</b> .....	50
<b>NUMBERING OF BUILDINGS</b> .....	150
<b>OATH OF OFFICE</b> .....	5.01
<b>OFFENSIVE SMELLS AND SUBSTANCES</b> .....	50.02(1) and (2)
<i>See also</i> Restricted Discharges to Sanitary Sewer System.....	97.04

	CHAPTER OR SECTION NUMBER
<b>OFF-ROAD MOTORCYCLES AND UTILITY VEHICLES .....</b>	<b>75</b>
<b>ON-SITE WASTEWATER SYSTEMS .....</b>	<b>98</b>
<b>ONE-WAY TRAFFIC .....</b>	<b>68</b>
<b>OPEN BURNING.....</b>	<b>105.05</b>
<b>OPEN CONTAINERS IN MOTOR VEHICLES.....</b>	<b>62.01(49) and (50)</b>
<b>OPEN MEETINGS .....</b>	<b>5.06</b>
<b>OPERATING PROCEDURES .....</b>	<b>5</b>
<b>PARADES REGULATED.....</b>	<b>60.08</b>
<b>PARK COMMISSION .....</b>	<b>23</b>
<b>PARKING REGULATIONS</b>	
Angle Parking .....	69.03 and 69.04
Car Only Parking .....	69.11
Fire Lanes.....	69.13
Illegal Purposes .....	69.05
Limited to Two Hours.....	69.10
No Parking Zones.....	69.08
Park Adjacent to Curb.....	69.01 and 69.02
Parking of Bicycles .....	76.11
Parking Prohibited.....	69.06
Parking Violations.....	70.03 and 70.04
Persons With Disabilities Parking.....	69.07
Snow Emergency .....	69.12
Truck Parking Limited .....	69.09
<b>PEACE OFFICERS</b>	
Failure to Assist.....	41.04
Interference with .....	41.06
Obedience to.....	60.07
Powers and Authority under Traffic Code .....	60
Qualifications .....	30.03
Removal of an Officer's Communication or Control Device .....	41.07
Training .....	30.04
<i>See also</i> <b>POLICE DEPARTMENT .....</b>	<b>30</b>
<b>PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS .....</b>	<b>122</b>

	CHAPTER OR SECTION NUMBER
<b>PEDESTRIANS</b> .....	67
<i>See also:</i>	
Crosswalks .....	61.02
State Code Traffic Regulations .....	62.01
Yield to Pedestrians in Crosswalks .....	65.07
<b>PENALTIES</b>	
Abatement of Violation of Sewer Connection Requirements .....	96.11
Additional Penalties – Cigarette and Tobacco Permits .....	121.07
Curfew Violations .....	46.01(6)
Municipal Infractions .....	3
Special Penalties (Sanitary Sewer Regulations) .....	95.10
Special Penalty (Bicycle Regulations) .....	76.13
Standard Penalty for Violation of Code of Ordinances .....	1.14
Traffic Code Violations .....	70
<b>PERMITS</b>	
Beer and Wine .....	120
Building .....	147
Cigarette and Tobacco .....	121.02
Fireworks .....	41.14
Flood Plain Development .....	160.13
Home Occupation .....	165.02(60)(I)
House Mover .....	123.02
Junk Dealer .....	124.02
On-Site Wastewater System .....	98.04
Open Burning .....	105.05
Open Dumping .....	105.08
Parade .....	60.08(2)
Persons with Disabilities Parking .....	69.07
Sewer Connection .....	96.01
Sidewalks .....	136.07
Street Excavation .....	135.09(1)
Use of City Property for Hazardous Activities .....	42.07
Vehicles, Excess Size and Weight .....	66.02
Vending Machines and Sales Stands on Sidewalks .....	136.19
Water System Connection .....	90.05
<i>See also</i> Issuance of Licenses and Permits .....	18.10
<i>See also</i> <b>LICENSES</b>	
<b>PERSONAL INJURIES</b> .....	1.05
<b>PET AWARDS PROHIBITED</b> .....	55.16

	CHAPTER OR SECTION NUMBER
<b>PLANNING AND ZONING COMMISSION</b> .....	22
<b>PLAY STREETS</b> .....	62.02
<i>See also</i> Playing in Streets .....	135.04
<b>POLICE DEPARTMENT</b> .....	30
<b>POLLUTION</b>	
Air Pollution.....	50.02(8)
Incinerators Required.....	105.11
Environmental Violations .....	3.02
Hazardous Substance Spills .....	36
Open Burning Restricted.....	105.05
Prohibited Discharges to Public Sewer .....	97.02
Restricted Discharges to Sewer System .....	97.03
Toxic and Hazardous Wastes .....	105.09
Water Pollution .....	50.02(4)
<b>POWERS AND DUTIES</b>	
City Clerk.....	18.02
City Council .....	17.02 and 17.03
City Officers Generally .....	2.03
Fire Chief .....	35.07
Mayor.....	15.02
Mayor Pro Tem .....	16.02
Municipal Officers .....	5.03
Police Chief.....	30.07
<b>PRIVATE PROPERTY</b> .....	42
<b>PRIVATE WATER SYSTEMS (SEWER CHARGES)</b> .....	99.04
<b>PUBLIC AND PRIVATE PROPERTY</b>	
Criminal Mischief .....	42.02
Damage to Sewer System.....	95.05(1)
Defacing Proclamations or Notices.....	42.03
Fraud .....	42.05
Injury to Library Books or Property .....	21.10
Littering Prohibited .....	105.07
Open Dumping .....	105.08
Public and Private Property.....	42
Sidewalk Regulations.....	136
Street Excavations .....	135
Theft.....	42.06
Trees and Shrubs on Public Property .....	151
Trespassing.....	42.01
Unauthorized Entry .....	42.04
Use of City Property for Hazardous Activities .....	42.07

	CHAPTER OR SECTION NUMBER
<b>PUBLIC HEALTH AND SAFETY</b> .....	41
<b>PUBLIC NOTICES</b> .....	18.05(1)
<b>PUBLIC OFFENSES</b>	
Drug Paraphernalia.....	43
Littering Prohibited .....	105.07
Open Dumping .....	105.08
Public and Private Property.....	42
Public Peace .....	40
Public Health and Safety .....	41
<i>See also</i> <b>SIDEWALK REGULATIONS</b> .....	136
<i>See also</i> <b>STREET EXCAVATIONS</b> .....	135
<b>PUBLICATION REQUIREMENTS</b> .....	18.05
<b>RABIES VACCINATION</b> .....	55.10
<b>RECORDS</b>	
Accounting .....	7.07
Fire Department .....	35.07(12)
Maintenance by Clerk .....	18.08
Minutes of Council Meetings.....	5.06(3)
Public Records, Access to .....	5.04
Transfer to Successors.....	5.05
<b>RECREATIONAL VEHICLE, LIVING QUARTERS</b> .....	165.02(94)
<b>REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES</b> .....	5.09
<b>RESIGNATION OF ELECTED OFFICERS</b> .....	5.08
<b>RIGHT TO ENTER</b> .....	1.15
<i>See also:</i>	
Sewer Service Inspection and Sampling .....	95.08
Solid Waste Collection.....	106.06
Use of Easements .....	95.09
Warrants .....	1.12
Water Meter Service .....	91.08
<b>SANITARY SEWER SYSTEM</b>	
General Provisions .....	95
Building Sewers and Connection Requirements .....	96
On-Site Wastewater Systems .....	98
Sewer Service Charges.....	99
Use of Public Sewers .....	97
<b>SEWER RATES</b> .....	99

---

 CHAPTER OR SECTION  
NUMBER
 

---

**SIDEWALKS**

Barricades and Warning Lights.....	136.09
Bicycles on Sidewalks.....	76.08
Construction Standards .....	136.08
Debris on .....	136.17
Defacing .....	136.16
Encroaching Steps .....	136.13
Fires and Fuel on .....	136.15
Interference with Improvements .....	136.11
Maintenance .....	136
Openings and Enclosures .....	136.14
Parking Prohibited on Sidewalks .....	69.06(4)
Sales Stands and Merchandise Displays .....	136.18 and 136.19
Snow Removal .....	136.03
Use by Pedestrians .....	67.04
Vehicles Crossing Sidewalks .....	65.05
Vehicles on Sidewalks .....	62.03

**SIGNS***See* **ZONING****SKATES, COASTERS AND TOY VEHICLES**

Clinging to Vehicle .....	62.04
---------------------------	-------

**SNOW REMOVAL**

From Sidewalks.....	136.03
From Streets .....	135.12
Parking .....	69.12

**SNOWMOBILES AND ALL-TERRAIN VEHICLES .....** 75**SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS .....** 122**SOLID WASTE CONTROL**

Collection .....	106
General Provisions .....	105
<i>See also</i> Restricted Discharges to Sewer System .....	97.03

**SPEED REGULATIONS .....** 63**STATE CODE TRAFFIC REGULATIONS .....** 62.01**STOP OR YIELD REQUIRED .....** 65**STORM WATER MANAGEMENT .....** 100*See also:*

Discharge to Sanitary Sewer Prohibited.....	95.05(2) and 97.01
---	--------------------

	CHAPTER OR SECTION NUMBER
<b>STREET NAME MAP</b> .....	139.04 and 139.05
<b>STREETS AND ALLEYS</b>	
Billboards and Signs Obstructing View .....	50.02(6)
Blocking Public and Private Ways .....	50.02(5)
Excavations and Maintenance .....	135
Grades .....	138
Obstructing Use of Streets .....	40.03(7)
Naming .....	139
Vacation and Disposal .....	137
<i>See also</i> <b>TRAFFIC CODE</b>	
<b>SUBDIVISION REGULATIONS</b> .....	170
<b>TERMS OF OFFICE</b>	
Clerk .....	18.01
Council .....	2.04 and 17.01
Mayor .....	2.05 and 15.01
Treasurer .....	19.01
<b>THEFT</b>	
Library Property .....	21.11
Public and Private Property .....	42.06
<b>TOBACCO PERMITS</b> .....	121
<b>TOXIC AND HAZARDOUS WASTE</b> .....	105.09
<b>TRAFFIC CODE</b>	
Administration of .....	60
Enforcement Procedures .....	70
General Regulations .....	62
Load and Weight Restrictions .....	66
One-Way Traffic .....	68
Parking Regulations .....	69
Pedestrians .....	67
Speed Regulations .....	63
Stop or Yield Required .....	65
Turning Regulations .....	64
Traffic Control Devices .....	61
<b>TRAFFIC CONTROL DEVICES</b>	
Installation; Standards; Compliance .....	61
Traveling on Barricaded Street or Alley .....	135.05
<b>TRAFFIC REGULATIONS</b> .....	62.01
<b>TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS</b> .....	122

	CHAPTER OR SECTION NUMBER
<b>TREASURER .....</b>	<b>19</b>
<b>TREES</b>	
Disease Control .....	151.05
Dutch Elm Disease .....	50.02(10)
Duty to Trim Trees.....	151.03
Inspection and Removal of.....	151.06
Maintenance of Parking or Terrace .....	135.10
Obstructing View at Intersections .....	62.06
Open Burning Restrictions .....	105.05
Planting Restrictions .....	151.02
Trimming Trees to be Supervised .....	151.04
Yard Waste.....	105.06
<b>TRESPASSING .....</b>	<b>42.01</b>
<b>TRUCK PARKING LIMITED.....</b>	<b>69.09</b>
<b>TURNING REGULATIONS.....</b>	<b>64</b>
<b>UNAUTHORIZED ENTRY .....</b>	<b>42.04</b>
<b>UNLAWFUL ASSEMBLY.....</b>	<b>40.04</b>
<b>URBAN RENEWAL .....</b>	<b>8</b>
<b>URBAN REVITALIZATION AREA .....</b>	<b>9</b>
<b>URINATING AND DEFECATING IN PUBLIC .....</b>	<b>41.13</b>
<b>UTILITIES</b>	
Electric .....	24
Natural Gas.....	110
Sewer Service System .....	95 - 99
Utility Board of Trustees.....	24
Water Service System .....	90 - 92
<b>U-TURNS.....</b>	<b>64.02</b>
<b>VACANCIES IN OFFICE.....</b>	<b>5.10</b>
<b>VACATING STREETS OR ALLEYS .....</b>	<b>137</b>
<b>VETO</b>	
Council May Override.....	17.03
Mayor's Authority.....	15.02(4)
<b>VICIOUS ANIMALS.....</b>	<b>56</b>



	CHAPTER OR SECTION NUMBER
<b>VIOLATIONS</b>	
Cigarette and Tobacco Violations (Sale to Minors).....	121.07
Environmental .....	3.02
Municipal Infractions .....	3
Parking .....	70
Special Penalties for Violation of Sanitary Sewer Regulations .....	95.10
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic.....	62.01
<b>WARRANTS</b> .....	1.12
<b>WASTE STORAGE CONTAINERS</b> .....	105.10
<b>WASTEWATER SYSTEMS, ON-SITE</b> .....	98
<b>WATER POLLUTION</b> .....	50.02(4)
<b>WATER SERVICE SYSTEM</b>	
Connections; General Regulations .....	90
Meters.....	91
Rates.....	92
<b>WEAPONS</b>	
Discharging Weapons in City Limits .....	41.11
Taking Weapons During Arrest .....	30.10
Throwing and Shooting.....	41.12
<b>WEEDS AND BRUSH</b> .....	50.02(9)
<b>WINE</b>	
<i>See</i> <b>ALCOHOL</b>	
<b>YARD REQUIREMENTS</b>	
<i>See</i> <b>ZONING</b> .....	165
<b>YARD WASTE</b> .....	105.06
<b>YIELD REQUIRED</b> .....	65
<b>ZONING REGULATIONS</b> .....	165

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CHAPTER OR SECTION  
NUMBER

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# CHAPTER 1

## CODE OF ORDINANCES

1.01 Title  
1.02 Definitions  
1.03 City Powers  
1.04 Indemnity  
1.05 Personal Injuries  
1.06 Rules of Construction  
1.07 Extension of Authority  
1.08 Amendments

1.09 Catchlines and Notes  
1.10 Altering Code  
1.11 Severability  
1.12 Warrants  
1.13 General Standards for Action  
1.14 Standard Penalty  
1.15 Right of Entry

**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Sumner, 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 Sumner, Iowa.
3. “Clerk” means the city clerk of Sumner, 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 Sumner, Iowa.
6. “Council” means the city council of Sumner, Iowa.
7. “County” means Bremer or Fayette 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 Sumner, 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 sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.<sup>†</sup>

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

**1.15 RIGHT OF ENTRY.** Whenever necessary to make an inspection to enforce any ordinance, or whenever there is reasonable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by ordinance; provided, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, 24-hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

[The next page is 9]

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

## CHAPTER 2

# CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

**2.01 TITLE.** This chapter may be cited as the charter of the City of Sumner, Iowa.<sup>†</sup>

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 138 adopting a charter for the City was passed and approved by the Council on July 1, 1973.

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## CHAPTER 3

# MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties

3.04 Civil Citations  
3.05 Alternative Relief  
3.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The next page is 21]

## CHAPTER 5

# OPERATING PROCEDURES

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

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

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no later than noon of the first day that is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

1. Appointment. By appointment following public notice by the remaining members of the Council within forty (40) days after the vacancy occurs, except that if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

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

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

[The next page is 29]



## CHAPTER 6

### CITY ELECTIONS

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

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

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

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

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

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

*(Code of Iowa, Sec. 45.4)*

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

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

[The next page is 35]

## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements

Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.

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

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

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

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

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

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

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

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

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

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

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**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)*

[The next page is 45]

## **CHAPTER 8**

# **URBAN RENEWAL**

### **EDITOR'S NOTE**

Ordinance No. 181, adopted in 1992, established the Sumner Urban Renewal Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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## **CHAPTER 9**

# **URBAN REVITALIZATION**

### **EDITOR'S NOTE**

Ordinance No. 197, adopted in 1994, designated the Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

[The next page is 71]

## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

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

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

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

(*Code of Iowa, Sec. 372.14[1]*)

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

(*Code of Iowa, Sec. 372.14[2]*)

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.

(*Code of Iowa, Sec. 372.14[1]*)

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

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

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

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

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

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

9. Licenses and Permits. Sign all licenses and permits that have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

**15.03 APPOINTMENTS.** The Mayor shall appoint the Mayor Pro Tem, and the Mayor also appoints, with Council approval, the following officials:

*(Code of Iowa, Sec. 372.4)*

1. City Treasurer
2. City Attorney
3. Library Board of Trustees
4. Electric Utility Board of Trustees
5. Aquatic Center Board
6. Police Chief
7. Zoning Board of Adjustment

**15.04 COMPENSATION.** The salary of the Mayor is \$5,000.00 per year.

*(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)*

[The next page is 75]

## CHAPTER 16

### MAYOR PRO TEM

**16.01 Vice President of Council**  
**16.02 Powers and Duties**

**16.03 Voting Rights**  
**16.04 Compensation**

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

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

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

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

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

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

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

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

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## CHAPTER 17

### CITY COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

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

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

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

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

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

2. Wards. By ordinance, the Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards, or create new wards.

*(Code of Iowa, Sec. 372.13[7])*

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

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

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

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

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

*(Code of Iowa, Sec. 26.10)*

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

1. Regular Meetings. The regular meetings of the Council are on the first and third Mondays of each month at 6:30 p.m., in Council Chambers at City Hall. If such day falls on a legal holiday, the meeting shall be held on such day 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])*
3. Quorum. A majority of all Council members is a quorum.  
*(Code of Iowa, Sec. 372.13[1])*
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.  
*(Code of Iowa, Sec. 372.13[5])*
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. Planning and Zoning Commission

**17.06 COMPENSATION.** The salary of each Council member is \$2,000.00 per year.  
*(Code of Iowa, Sec. 372.13[8])*

[The next page is 83]

## CHAPTER 18

# CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** At its first meeting in January of each year, 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 fifteen (15) days following a regular or special meeting, the Clerk shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) or more than twenty (20) days before the date of the election, hearing, or other action, unless otherwise provided by law.

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18.13 CITY SEAL.** The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words “Sumner, Iowa,” and around the margin of which are the words “City Seal.”

**18.14 CITY FUNDS.** The Clerk shall perform the following duties relating to City funds.

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.
2. Record Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.
3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
4. Special Assessments. Keep a separate account of all money received from special assessments.
5. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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## **CHAPTER 19**

### **CITY TREASURER**

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

**19.03 Duties of Treasurer**

**19.01 APPOINTMENT.** The Mayor shall appoint, subject to Council approval, a City Treasurer to serve for a term of one year.

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

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

1. Reconciliation. Reconcile the Clerk's books and records and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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## CHAPTER 20

### CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## CHAPTER 21

# LIBRARY BOARD OF TRUSTEES

21.01 Public Library  
21.02 Library Trustees  
21.03 Qualifications of Trustees  
21.04 Organization of the Board  
21.05 Powers and Duties  
21.06 Contracting with Other Libraries

21.07 Nonresident Use  
21.08 Expenditures  
21.09 Annual Report  
21.10 Injury to Books or Property  
21.11 Theft  
21.12 Notice Posted

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

**21.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

**21.03 QUALIFICATIONS OF TRUSTEES.** All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of eighteen (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 (6) 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)*
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) 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 forty (40) days before the election. The proposition may be submitted at any election provided by law which is held in the territory of the party seeking to terminate the contract.

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

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

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

[The next page is 99]

## CHAPTER 22

# PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission  
22.02 Term of Office  
22.03 Vacancies

22.04 Compensation  
22.05 Powers and Duties

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

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

**22.02 TERM OF OFFICE.** The term of office of the members of the Commission shall be three-year overlapping terms.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon

action for any such improvement if the Commission, after thirty (30) days' written notice requesting such recommendations, has failed to file the same.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*



## CHAPTER 23

### PARK COMMISSION

23.01 Park Commission  
23.02 Election; Term  
23.03 Organization  
23.04 Compensation

23.05 Powers and Duties  
23.06 Reports  
23.07 Budget Certified

**23.01 PARK COMMISSION.** There shall be a Board of Park Commissioners for the City consisting of three (3) citizens of legal age.

**23.02 ELECTION; TERM.** One Commissioner shall be elected at each regular City election for a term of six (6) years.

**23.03 ORGANIZATION.** The Commissioners shall, at their first regular meeting in January following a City election, organize as a Board, selecting one of its members as Chairperson and one as Secretary.

**23.03 COMPENSATION.** The salary of each Park Commissioner is \$600.00 per year.

**23.05 POWERS AND DUTIES.** The Board has exclusive control of all parks and pleasure grounds within the City. The Board shall plan the City's parks and recreational programs and care for, supervise, control, and improve such parks and programs. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

**23.06 REPORTS.** The Board shall make reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

**23.07 BUDGET CERTIFIED.** The Board shall submit to the Council each year a proposed budget and tax levy for general park purposes for the ensuing fiscal year. The Council shall include such tax levy, or so much thereof as it may deem necessary, in the levy for the General Fund of the City as certified to the County Auditor.

[The next page is 105]

## CHAPTER 24

### ELECTRIC UTILITY BOARD OF TRUSTEES

24.01 Purpose  
24.02 Appointment of Trustees  
24.03 Compensation  
24.04 Vacancies  
24.05 Powers and Duties of the Board

24.06 Control of Funds  
24.07 Accounting  
24.08 Discriminatory Rates Illegal  
24.09 Discontinuance of Board

**24.01 PURPOSE.** The purpose of this chapter is to provide for the management and control of the municipally owned Electric Utility by a Board of Trustees.

**24.02 APPOINTMENT OF TRUSTEES.** The Mayor shall appoint, subject to the approval of the Council, three persons to serve as trustees for staggered six-year terms. No public officer or salaried employee of the City may serve on the utility board.

*(Code of Iowa, Sec. 388.3)*

**24.03 COMPENSATION.** The Council shall by resolution set the compensation of Board members.

*(Code of Iowa, Sec. 388.3)*

**24.04 VACANCIES.** An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term.

*(Code of Iowa, Sec. 388.3)*

**24.05 POWERS AND DUTIES OF THE BOARD.** The Board of Trustees may exercise all powers of the City in relation to the City utility, with the following exceptions:

*(Code of Iowa, Sec. 388.4)*

1. Taxes, Ordinances, and Bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

*Code of Iowa, Sec. 388.4[1])*

2. Property. Title to all property must be in the name of the City but the Board has full control of such property subject to limitations imposed by law.

*(Code of Iowa, Sec. 388.4[2])*

3. Reports to Council. The Board shall make a detailed annual report to the Council including a complete financial statement.

*(Code of Iowa, Sec. 388.4[3])*

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general circulation in the City a condensed statement of proceedings including a list of all claims.

*(Code of Iowa, Sec. 388.4[4])*

**24.06 CONTROL OF FUNDS.** The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

*(Code of Iowa, Sec. 388.5)*

**24.07 ACCOUNTING.** Utility moneys are held in a separate utility fund.

*(Code of Iowa, Sec. 388.5)*

**24.08 DISCRIMINATORY RATES ILLEGAL.** The utility may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, *Code of Iowa*.

*(Code of Iowa, Sec. 388.6)*

**24.09 DISCONTINUANCE OF BOARD.** A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five years.

*(Code of Iowa, Sec. 388.2)*

[The next page is 109]

## CHAPTER 25

### AQUATIC CENTER BOARD

25.01 Aquatic Center Board Created  
25.02 Board Organization  
25.03 Duties of the Board

25.04 Reports  
25.05 Rules

**25.01 AQUATIC CENTER BOARD CREATED.** An Aquatic Center Board is hereby created to administer the operation of the aquatic center and advise the Council on the needed facilities of the aquatic center.

**25.02 BOARD ORGANIZATION.** The Board shall consist of five members, appointed by the Mayor with the approval of the Council, for overlapping terms of three years. Three of the members shall be residents of the City, one shall be a resident of the County, and one shall be an at-large member from either the City or the County. All members shall be over the age of eighteen (18) years. The Board shall annually choose from its membership a Chairperson, Vice Chairperson, and Secretary. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

**25.03 DUTIES OF THE BOARD.** In addition to its duty to make a plan for the use, care, and management of the aquatic center, and to update and revise these plans as required, the Board shall have authority over the properties and personnel devoted to the aquatic center, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for the aquatic center operations. The Board shall cooperate with the Mayor in the allotment of time of City employees for aquatic center purposes. The Chairperson shall order supplies by the procedures established by the Council for all departments of the City, and payment will be made by check written by the Clerk for invoices submitted and approved by the Board.

**25.04 REPORTS.** The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

**25.05 RULES.** The Board has the power to make rules and regulations for the use of the aquatic center, subject to the approval of the rules by the Council. Such rules shall be either posted at the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

[The next page is 145]

## CHAPTER 30

# POLICE DEPARTMENT

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

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

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

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

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

**30.04 REQUIRED TRAINING.** All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

*(Code of Iowa, Sec. 80B.11[2])  
(IAC, 501-3 and 501-8)*

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

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

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

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

*(Code of Iowa, Sec. 321.266)*

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

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

**30.09 SUMMONING AID.** Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

*(Code of Iowa, Sec. 804.17)*

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

*(Code of Iowa, Sec. 804.18)*

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

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

[The next page is 151]



## CHAPTER 35

# FIRE DEPARTMENT

35.01 Establishment and Purpose  
35.02 Organization  
35.03 Approved by Council  
35.04 Training  
35.05 Compensation  
35.06 Election of Officers  
35.07 Fire Chief: Duties

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

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

*(Code of Iowa, Sec. 364.16)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

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

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 670.2 & 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 36

# HAZARDOUS SUBSTANCE SPILLS

### 36.01 Purpose

### 36.02 Definitions

### 36.03 Cleanup Required

### 36.04 Liability for Cleanup Costs

### 36.05 Notifications

### 36.06 Police Authority

### 36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**36.05 NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief, who shall then notify the Department of Natural Resources.

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

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

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

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

[The next page is 185]



## CHAPTER 40

### PUBLIC PEACE

**40.01 Assault**

**40.02 Harassment**

**40.03 Disorderly Conduct**

**40.04 Unlawful Assembly**

**40.05 Failure to Disperse**

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

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

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 723.5)*

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

*(Code of Iowa, Sec. 723.2)*

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

*(Code of Iowa, Sec. 723.3)*

[The next page is 193]

## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances  
41.02 False Reports to or Communications with Public  
Safety Entities  
41.03 Providing False Identification Information  
41.04 Refusing to Assist Officer  
41.05 Harassment of Public Officers and Employees  
41.06 Interference with Official Acts  
41.07 Removal of an Officer's Communication or  
Control Device

41.08 Abandoned or Unattended Refrigerators  
41.09 Antenna and Radio Wires  
41.10 Barbed Wire and Electric Fences  
41.11 Discharging Weapons  
41.12 Throwing and Shooting  
41.13 Urinating and Defecating  
41.14 Fireworks

**41.01 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, 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, 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 ten (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.** The sale, use and exploding of fireworks within the City are subject to the following:

*(Code of Iowa, Sec. 727.2)*

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

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

A. Personal Injury: .....\$250,000 per person

B. Property Damage: .....\$50,000

C. Total Exposure: .....\$1,000,000

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

[The next page is 201]



## CHAPTER 42

# PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing  
42.02 Criminal Mischief  
42.03 Defacing Proclamations or Notices  
42.04 Unauthorized Entry

42.05 Fraud  
42.06 Theft  
42.07 Use of City Property for Hazardous Activities  
42.08 Other Public Property Offenses

### 42.01 TRESPASSING.

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

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

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

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

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

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

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

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

- F. “Trespass” means one or more of the following acts:

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

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

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

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

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

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

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

3. Specific Exceptions. "Trespass" does not mean either of the following:

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

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

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

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

(*Code of Iowa, Sec. 714.8*)

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

(*Code of Iowa, Sec. 714.1*)

**42.07 USE OF CITY PROPERTY FOR HAZARDOUS ACTIVITIES.**

1. Hazardous Activities Defined. For the purpose of this section, the term “hazardous activity” includes, but is not limited to, the following:

- A. Circuses;
- B. Carnivals;
- C. Rodeos;
- D. Sideshows;
- E. Exhibitors of animals;
- F. Any event where there is sale of beer or liquor requiring a permit;
- G. Any special event involving vehicle or equipment races or competitions or the use of carnival-type rides;
- H. Revival meetings;
- I. Transient commercial endeavors of any sort or description;
- J. Other similar events that pose a hazard to the public in the opinion of the City Council.

2. Permit Required. Whenever any individual, firm, corporation, or entity of any type desires to use City property for any hazardous activity, a permit issued by the Clerk is required. As a condition of issuing the permit, the Clerk shall require a certificate of insurance with policy limits of a minimum of \$500,000.00 for any one incident, designating the City as the named insured.

3. Provisions Not Exclusive. The requirement of this section are in addition to any other licensing or permit requirements found elsewhere in this Code of Ordinances.

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

- 1. Chapter 21 – Library
  - A. Section 21.10 – Injury to Books or Property
  - B. Section 21.11 – Theft of Library Property
- 2. Chapter 105 – Solid Waste Control and Recycling

- A. Section 105.07 – Littering Prohibited
- B. Section 105.08 – Open Dumping Prohibited
- 3. Chapter 135 – Street Use and Maintenance
  - A. Section 135.01 – Removal of Warning Devices
  - B. Section 135.02 – Obstructing or Defacing
  - C. Section 135.03 – Placing Debris On
  - D. Section 135.04 – Playing In
  - E. Section 135.05 – Traveling on Barricaded Street or Alley
  - F. Section 135.08 – Burning Prohibited
  - G. Section 135.12 – Dumping of Snow
- 4. Chapter 136 – Sidewalk Regulations
  - A. Section 136.11 – Interference with Sidewalk Improvements
  - B. Section 136.15 – Fires or Fuel on Sidewalks
  - C. Section 136.16 – Defacing
  - D. Section 136.17 – Debris on Sidewalks
  - E. Section 136.18 – Merchandise Display
  - F. Section 136.19 – Sales Stands

[The next page is 211]

## CHAPTER 43

# DRUG PARAPHERNALIA

### 43.01 Purpose

### 43.02 Controlled Substance Defined

### 43.03 Drug Paraphernalia Defined

### 43.04 Determining Factors

### 43.05 Possession of Drug Paraphernalia

### 43.06 Manufacture, Delivery, or Offering For Sale

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

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

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

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

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

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

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

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

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

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

[The next page is 225]



## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

### 45.01 Persons Under Legal Age

### 45.03 Open Containers in Motor Vehicles

### 45.02 Public Consumption or Intoxication

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

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

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

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

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

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

1. As used in this section unless the context otherwise requires:
  - A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.
  - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
  - C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
  - D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.
3. A person shall not simulate intoxication in a public place.

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

*(Code of Iowa, Sec. 123.46)*

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

## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
  - A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury, or loss of life.
  - B. “Knowingly” means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
  - C. “Minor” means any unemancipated person under the age of eighteen (18) years.
  - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
  - E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has

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

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 10:30 p.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:00 midnight and 5:00 a.m. on Friday and Saturday.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

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

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

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

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver’s

license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

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

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

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

6. Penalties.

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

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

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

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

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco

products, or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products 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* and lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

[The next page is 245]

## CHAPTER 50

# NUISANCE ABATEMENT PROCEDURE

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

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

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 657.3)*

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: <sup>†</sup>
  - A. Description of Nuisance. A description of what constitutes the nuisance.
  - B. Location of Nuisance. The location of the nuisance.

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



- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.  
*(Code of Iowa, Sec. 364.12[3h])*
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.  
*(Code of Iowa, Sec. 364.12[3h])*
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.  
*(Code of Iowa, Sec. 364.12[3h])*
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.  
*(Code of Iowa, Sec. 364.12[3h])*
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.  
*(Code of Iowa, Sec. 364.13)*
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

[The next page is 255]

## CHAPTER 51

# JUNK AND JUNK VEHICLES

### 51.01 Definitions

#### 51.02 Junk and Junk Vehicles Prohibited

#### 51.03 Junk and Junk Vehicles a Nuisance

### 51.04 Exceptions

#### 51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The next page is 275]

## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

### 55.01 Definitions

### 55.02 Animal Neglect

### 55.03 Livestock Neglect

### 55.04 Abandonment of Cats and Dogs

### 55.05 Livestock

### 55.06 At Large Prohibited

### 55.07 Damage or Interference

### 55.08 Annoyance or Disturbance

### 55.09 Sanitation

### 55.10 Rabies Vaccination

### 55.11 Owner's Duty

### 55.12 Confinement

### 55.13 At Large: Impoundment

### 55.14 Disposition of Animals

### 55.15 Impounding Costs

### 55.16 Pet Awards Prohibited

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

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

2. “Animal” means a nonhuman vertebrate.  
(*Code of Iowa, Sec. 717B.1*)

3. “At large” means off the premises of the owner and not under the control of a competent person, on a leash, at heel beside a competent person and obedient to that person’s command, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

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

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

5. “Fair” means any of the following:

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

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

7. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.  
(*Code of Iowa, Sec. 717.1*)

8. “Owner” means any person owning, keeping, sheltering or harboring an animal or allowing an animal to remain on or about such person’s premises for more than three (3) days.

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

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

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

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

*(Code of Iowa, Sec. 717.2)*

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

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

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

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

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

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

**55.09 SANITATION.** No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal’s discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

**55.10 RABIES VACCINATION.** Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person’s possession, six months of age or over, which has not been vaccinated against rabies. Dogs

kept in State or Federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

*(Code of Iowa, Sec. 351.33)*

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

*(Code of Iowa, Sec. 351.38)*

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

*(Code of Iowa, Sec. 351.39)*

**55.13 AT LARGE: IMPOUNDMENT.** Animals found at large in violation of this chapter shall be seized and impounded at the impoundment facilities utilized by the City, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

**55.14 DISPOSITION OF ANIMALS.** When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) 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 (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

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

**55.15 IMPOUNDING COSTS.** Impounding costs are a twenty dollar (\$20.00) City impoundment fee and boarding costs as established by the impoundment facility.

*(Code of Iowa, Sec. 351.37)*

**55.16 PET AWARDS PROHIBITED.**

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

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

- D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
- 2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
  - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

[The next page is 283]



## CHAPTER 56

### VICIOUS ANIMALS

#### 56.01 Definition

#### 56.02 Keeping of Vicious Animals Prohibited

#### 56.03 Seizure, Impoundment and Disposition

**56.01 DEFINITION.** For use in this chapter, “vicious animal” means any animal 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 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.

#### **56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION.**

1. In the event that a 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 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 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 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 (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the 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 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 (3) days after receipt of the order contained in the notice to remove the 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 (7) 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 (3) 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 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 (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Mayor or peace officer is authorized to seize, impound or destroy such 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.

[The next page is 301]

## CHAPTER 60

# ADMINISTRATION OF TRAFFIC CODE

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

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

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

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

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a 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 Police Department.

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

*(Code of Iowa, Sec. 321.273)*

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

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all

participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

4. Control by Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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## CHAPTER 61

### TRAFFIC CONTROL DEVICES

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

# GENERAL TRAFFIC REGULATIONS

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

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

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

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

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

- 55. Section 321.299 – Overtaking a vehicle.
- 56. Section 321.302 – Overtaking and passing.
- 57. Section 321.303 – Limitations on overtaking on the left.
- 58. Section 321.304 – Prohibited passing.
- 59. Section 321.306 – Roadways laned for traffic.
- 60. Section 321.307 – Following too closely.
- 61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 62. Section 321.309 – Towing; convoys; drawbars.
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers approaching blind persons.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 86. Section 321.343 – Certain vehicles must stop.
- 87. Section 321.344 – Heavy equipment at crossing.

- 88. Section 321.344B – Immediate safety threat; penalty.
- 89. Section 321.354 – Stopping on traveled way.
- 90. Section 321.359 – Moving other vehicle.
- 91. Section 321.362 – Unattended motor vehicle.
- 92. Section 321.363 – Obstruction to driver's view.
- 93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
- 94. Section 321.365 – Coasting prohibited.
- 95. Section 321.367 – Following fire apparatus.
- 96. Section 321.368 – Crossing fire hose.
- 97. Section 321.369 – Putting debris on highway.
- 98. Section 321.370 – Removing injurious material.
- 99. Section 321.371 – Clearing up wrecks.
- 100. Section 321.372 – School buses.
- 101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 102. Section 321.381A – Operation of low-speed vehicles.
- 103. Section 321.382 – Upgrade pulls; minimum speed.
- 104. Section 321.383 – Exceptions; slow vehicles identified.
- 105. Section 321.384 – When lighted lamps required.
- 106. Section 321.385 – Head lamps on motor vehicles.
- 107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 108. Section 321.387 – Rear lamps.
- 109. Section 321.388 – Illuminating plates.
- 110. Section 321.389 – Reflector requirement.
- 111. Section 321.390 – Reflector requirements.
- 112. Section 321.392 – Clearance and identification lights.
- 113. Section 321.393 – Color and mounting.
- 114. Section 321.394 – Lamp or flag on projecting load.
- 115. Section 321.395 – Lamps on parked vehicles.
- 116. Section 321.398 – Lamps on other vehicles and equipment.
- 117. Section 321.402 – Spot lamps.
- 118. Section 321.403 – Auxiliary driving lamps.
- 119. Section 321.404 – Signal lamps and signal devices.
- 120. Section 321.404A – Light-restricting devices prohibited.
- 121. Section 321.405 – Self-illumination.

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

[The next page is 321]

## CHAPTER 63

### SPEED REGULATIONS

#### 63.01 General

#### 63.02 State Code Speed Limits

#### 63.03 Parks, Cemeteries, and Parking Lots

#### 63.04 Special Speed Zones

#### 63.05 Minimum Speed

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

*(Code of Iowa, Sec. 321.285)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.290)*

1. Special 25 MPH Speed Zones. A speed in excess of twenty-five miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On First Street (Hwy. 93) from a point 50.8 feet west of Guilford Street (Station 536+45) to a point 51.3 feet west of Chicago Street (Station 550+60).
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On First Street (Hwy. 93) from the west corporate limits (Station 507+16.5) to a point 50.8 feet west of Guilford Street (Station 536+45).

- B. On First Street (Hwy. 93) from a point 51.3 feet west of Chicago Street (Station 550+60) to the east corporate limits.
- C. On Y Avenue (County Line Road) from Highway 93 to Thirteenth Street.

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

*(Code of Iowa, Sec. 321.294)*

[The next page is 325]



## CHAPTER 64

# TURNING REGULATIONS

### 64.01 Turning at Intersections

### 64.02 U-Turns

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

*(Code of Iowa, Sec. 321.311)*

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

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

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

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

1. At the intersection of First Street (Hwy. 93) and Railroad Street.
2. At the intersection of First Street (Hwy. 93) and Carpenter Street.
3. At the intersection of First Street (Hwy. 93) and Pleasant Street.

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## CHAPTER 65

### STOP OR YIELD REQUIRED

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

65.05 Stop Before Crossing Sidewalk  
65.06 Stop When Traffic Is Obstructed  
65.07 Yield to Pedestrians in Crosswalks

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

*(Code of Iowa, Sec. 321.345)*

1. A Avenue. Vehicles traveling west on A Avenue shall stop at Park Avenue.
2. Briarwood Court. Vehicles traveling south on Briarwood Court shall stop at Meadow Lane Drive.
3. Carpenter Street. Vehicles traveling on Carpenter Street shall stop at West First Street (Hwy. 93).
4. Carpenter Street. Vehicles traveling north on Carpenter Street shall stop at Eighth Street.
5. Carpenter Street. Vehicles traveling south on Carpenter Street shall stop at Seventh Street.
6. Catalina Drive. Vehicles traveling south on Catalina Drive shall stop at West Third Street.
7. Chicago Street. Vehicles traveling south on Chicago Street shall stop at West First Street (Hwy. 93).
8. Chicago Street. Vehicles traveling on Chicago Street shall stop at Second Street.
9. Chicago Street. Vehicles traveling south on Chicago Street shall stop at South Street.
10. Columbia Street. Vehicles traveling northwest on Columbia Street shall stop at Walnut Street.
11. Corkery Drive. Vehicles traveling east on Corkery Drive shall stop at Howard Street.
12. Country Heights Drive. Vehicles traveling south on Country Heights Drive shall stop at West First Street (Hwy. 93).
13. Country View Drive. Vehicles traveling east on Country View Drive shall stop at Country Heights Drive.
14. Division Street. Vehicles traveling on Division Street shall stop at West First Street (Hwy. 93).
15. Eighth Street. Vehicles traveling west on Eighth Street shall stop at Railroad Street.

16. Eighth Street. Vehicles traveling east on Eighth Street shall stop at Pleasant Street.
17. Eleventh Street. Vehicles traveling east on Eleventh Street shall stop at Railroad Street.
18. Fifth Street. Vehicles traveling east on Fifth Street shall stop at Union Street.
19. Fifth Street. Vehicles traveling on Fifth Street shall stop at Maple Street.
20. Fifth Street. Vehicles traveling on Fifth Street shall stop at Madison Street.
21. Fifth Street. Vehicles traveling on Fifth Street shall stop at Division Street.
22. Fifth Street. Vehicles traveling on Fifth Street shall stop at Railroad Street.
23. Fifth Street. Vehicles traveling east on Fifth Street shall stop at Carpenter Street.
24. Fourth Street. Vehicles traveling on Fourth Street shall stop at Guilford Street.
25. Fourth Street. Vehicles traveling on Fourth Street shall stop at Railroad Street.
26. Fourth Street. Vehicles traveling on Fourth Street shall stop at Carpenter Street.
27. Fourth Street. Vehicles traveling on Fourth Street shall stop at Pleasant Street.
28. Fridley Drive. Vehicles traveling on Fridley Drive shall stop at Fourth Street.
29. Fridley Drive. Vehicles traveling on Fridley Drive shall stop at Fifth Street.
30. Guilford Street. Vehicles traveling on Guilford Street shall stop at West First Street (Hwy. 93).
31. Hillside Drive. Vehicles traveling south on Hillside Drive shall stop at West Third Street.
32. Howard Street. Vehicles traveling south on Howard Street shall stop at West First Street (Hwy. 93).
33. Jackson Street. Vehicles traveling north on Jackson Street shall stop at West First Street (Hwy. 93).
34. Jefferson Street. Vehicles traveling south on Jefferson Street shall stop at West First Street (Hwy. 93).
35. Life Line Drive. Vehicles traveling north on Life Line Drive shall stop at West First Street (Hwy. 93).
36. Lincoln Street. Vehicles traveling north on Lincoln Street shall stop at West First Street (Hwy. 93).
37. Lincoln Street. Vehicles traveling south on Lincoln Street shall stop at A Avenue.
38. Logan Street. Vehicles traveling south on Logan Street shall stop at West First Street (Hwy. 93).
39. Logan Street. Vehicles traveling on Logan Street shall stop at Second Street.

40. Middle Street. Vehicles traveling west on Middle Street shall stop at Pleasant Street.
41. North Street. Vehicles traveling west on north Street shall stop at Pleasant Street.
42. Oak Street. Vehicles traveling east on Oak Street shall stop at Walnut Street.
43. Park Avenue. Vehicles traveling north on Park Avenue shall stop at West First Street (Hwy. 93).
44. Pleasant Street. Vehicles traveling south on Pleasant Street shall stop at West First Street (Hwy. 93).
45. Polk Street. Vehicles traveling south on Polk Street shall stop at Wapsie Street.
46. Polk Street. Vehicles traveling north on Polk Street shall stop at West Sixth Street.
47. Polk Street. Vehicles traveling south on Polk Street shall stop at Third Street.
48. Second Street. Vehicles traveling east on Second Street shall stop at Division Street.
49. Second Street. Vehicles traveling on Second Street shall stop at Railroad Street.
50. Second Street. Vehicles traveling on Second Street shall stop at Carpenter Street.
51. Second Street. Vehicles traveling on Second Street shall stop at Pleasant Street.
52. Second Street. Vehicles traveling on Second Street shall stop at Guilford Street.
53. Second Street. Vehicles traveling on Second Street shall stop at Walnut Street.
54. Seventh Street. Vehicles traveling west on Seventh Street shall stop at Railroad Street.
55. Seventh Street. Vehicles traveling east on Seventh Street shall stop at Pleasant Street.
56. Sixth Street. Vehicles traveling east on Sixth Street shall stop at Union Street.
57. Sixth Street. Vehicles traveling on Sixth Street shall stop at Division Street.
58. Sixth Street. Vehicles traveling east on Sixth Street shall stop at Railroad Street.
59. South Street. Vehicles traveling west on South Street shall stop at Pleasant Street.
60. Tenth Street. Vehicles traveling east on Tenth Street shall stop at Railroad Street.
61. Third Street. Vehicles traveling west on Third Street shall stop at Howard Street.

62. Third Street. Vehicles traveling on Third Street shall stop at Union Street.
63. Third Street. Vehicles traveling on Third Street shall stop at Division Street.
64. Third Street. Vehicles traveling east on Third Street shall stop at Railroad Street.
65. Thirteenth Street. Vehicles traveling on Thirteenth Street shall stop at Pleasant Street.
66. Twelfth Street. Vehicles traveling west on Twelfth Street shall stop at Railroad Street.
67. Twelfth Street. Vehicles traveling on Twelfth Street shall stop at Pleasant Street.
68. Walnut Street. Vehicles traveling on Walnut Street shall stop at West First Street (Hwy. 93).
69. Walnut Street. Vehicles traveling north on Walnut Street shall stop at Thirteenth Street.
70. Wapsie Street. Vehicles traveling on Wapsie Street shall stop at Division Street.
71. Wapsie Street. Vehicles traveling on Wapsie Street shall stop at Guilford Street.
72. Washington Street. Vehicles traveling south on Washington Street shall stop at West First Street (Hwy. 93).
73. Water Street. Vehicles traveling south on Water Street shall stop at East Second Street.
74. Whitetail Avenue. Vehicles traveling on Whitetail Avenue shall stop at West First Street (Hwy. 93).
75. Wood Street. Vehicles traveling south on Wood Street shall stop at Wapsie Street.
76. Wood Street. Vehicles traveling on Wood Street shall stop at West First Street (Hwy. 93).
77. Wood Street. Vehicles traveling north on Wood Street shall stop at Second Street.
78. Y Avenue. Vehicles traveling south on Y Avenue shall stop at West First Street (Hwy. 93).

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

*(Code of Iowa, Sec. 321.345)*

1. Intersection of Madison Street and Fifth Street.
2. Intersection of Division Street and Fourth Street.
3. Intersection of Carpenter Street and Second Street.

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

*(Code of Iowa, Sec. 321.345)*

1. Polk Street. Vehicles traveling south on Polk Street shall yield at West Fifth Street.
2. Railroad Street. Vehicles traveling north on Railroad Street shall yield at Thirteenth Street.
3. Railroad Street. Vehicles traveling south on Railroad Street shall yield at Wapsie Street.
4. Guilford Street. Vehicles traveling north on Guilford Street shall yield at West Sixth Street.
5. Division Street. Vehicles traveling north on Division Street shall yield at West Thirteenth Street.

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

*(Code of Iowa, Sec. 321.249)*

– NONE –

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

*(Code of Iowa, Sec. 321.353)*

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

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

*(Code of Iowa, Sec. 321.327)*

[The next page is 345]



## CHAPTER 66

### LOAD AND WEIGHT RESTRICTIONS

#### 66.01 Temporary Embargo

#### 66.02 Permits for Excess Size and Weight

#### 66.03 Load Limits Upon Certain Streets

#### 66.04 Load Limits on Bridges

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

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

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

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

1. Three-ton limit on Thirteenth Street from Division Street to Y Avenue.
2. Three-ton limit on North Walnut Street from First Street to Thirteenth Street.

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

*(Code of Iowa, Sec. 321.471)*

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## **CHAPTER 67**

### **PEDESTRIANS**

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

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

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## **CHAPTER 68**

### **ONE-WAY TRAFFIC**

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

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

1. Washington Street shall be southbound only from Second Street to First Street.
2. The alley between S. Carpenter Street and S. Railroad Street shall be westbound only.

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## CHAPTER 69

# PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.08 No Parking Zones
69.02 Park Adjacent to Curb – One-Way Street	69.09 Truck Parking
69.03 Angle Parking	69.10 Parking Limited to Two Hour
69.04 Angle Parking – Manner	69.11 Car Only Parking
69.05 Parking for Certain Purposes Illegal	69.12 Snow Emergency
69.06 Parking Prohibited	69.13 Fire Lanes
69.07 Persons With Disabilities Parking	

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

– NONE –

**69.04 ANGLE PARKING – MANNER.** 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 sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

*(Code of Iowa, Sec. 321.361)*

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

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

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

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

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

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



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

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

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

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

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

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

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

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

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

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

- B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*;
  - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the *Code of Iowa* when utilizing a wheelchair parking cone.
  - B. A person shall not interfere with a wheelchair parking cone 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. Railroad Street, on the east side, from First Street to Wapsie Street.
- 2. First Street, on both sides, from the west corporate limits to the east corporate limits.
- 3. Within thirty-five feet of the back of the sidewalk line of all street approaches to that portion of First Street between Guilford Street and Pleasant Street.
- 4. Within thirty-five feet of the back of the sidewalk line of intersecting street approaches to First Street from the west corporate limits to the east line of Walnut Street.
- 5. Pleasant Street, on both sides, from Second Street to Thirteenth Street.
- 6. North Division Street, on the east side, from First Street to Second Street.

**69.09 TRUCK PARKING.**

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

- 1. Definition. For purposes of this section the term “truck” means and includes any motor truck, panel truck, trailer, vehicle, semi-trailer, or truck tractor or any combination thereof which exceeds eighty-four (84) inches in width and two hundred fifteen (215) inches in length. Any such vehicles which do not exceed eighty-four (84) inches in width and two hundred fifteen (215) inches in length are not subject to this section.
- 2. Prohibited and Regulated.
  - A. No person shall park any truck, except for loading and unloading purposes or while in the actual process of being loaded or unloaded or making necessary minor repairs, on the following streets:
    - (1) First Street from Guilford Street to Pleasant Street.
    - (2) Railroad Street from Wapsie Street north to railroad tracks.

- (3) Carpenter Street from Wapsie Street north to railroad tracks.
- (4) Pleasant Street from First Street to Second Street.
- (5) Chicago Street from First Street north to railroad tracks.
- (6) Second Street from Guilford Street to Pleasant Street.

B. No person shall park any truck on any other streets in the City or in any alley between sunrise and sunset for a longer period than sixty (60) minutes, or for a longer period than thirty (30) minutes between sunset and sunrise, except for loading or unloading purposes or while in the actual process of being loaded or unloaded or making necessary minor repairs.

3. Livestock and Poultry Trucks.

A. No person shall park any livestock or poultry truck on any street while loaded or partially loaded with livestock or poultry other than temporarily for the purpose of and while actually engaged in the repairing or adjusting of the vehicle which has been necessitated by an emergency affecting the vehicle, or in obedience to traffic regulations or traffic signs or signals.

B. No person shall park any empty livestock or poultry truck upon any street or alley unless the same has been cleaned or flushed immediately prior thereto.

C. No person shall load or unload any livestock or poultry truck upon any street or alley.

4. Moving Vans or Trucks. Moving vans or trucks handling heavy freight or heavy merchandise may park at right angles with the curb while loading or unloading, but on through streets and in the business district where angle parking is not permitted, permission for such right angle parking shall be first obtained from the Police Chief.

5. Delivery Vehicles.

A. Loading and unloading of merchandise and freight shall not be done from the street in the business district where the same can be done from the alley.

B. Vehicles loading and unloading freight from the street shall park next to the curb when access thereto is not blocked. At times when access is blocked, trucks may be permitted to stand in the traveled portion of the street only for such time as reasonably necessary to complete the loading or unloading process, provided that an operator capable of moving the vehicle remains immediately available.

**69.10 PARKING LIMITED TO TWO HOURS.** It is unlawful to park any vehicle for a continuous period of more than two hours between the hours of 8:30 a.m. and 3:00 p.m., Monday through Friday, upon the following designated streets:

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

- 1. First Street, on both sides, from Pleasant Street to Railroad Street.
- 2. Railroad Street, on both sides, from First Street to Second Street.
- 3. North Carpenter Street, on both sides, from First Street to Second Street.

4. Second Street, on both sides, from Carpenter Street to Railroad Street.

**69.11 CAR ONLY PARKING.** The following parking spaces on First Street are designated as car only parking spaces. The parking of other vehicles in said designated spaces is hereby prohibited.

1. North Side of First Street.
  - A. One space at the intersection of First Street and North Pleasant Street.
  - B. One space on the east corner of the intersection of First Street and North Carpenter Street.
  - C. One space on the west corner of the intersection of First Street and North Carpenter Street.
  - D. One space on the east corner of the intersection of First Street and North Railroad Street.
  - E. One space on the west corner of the intersection of First Street and North Railroad Street.
2. South Side of First Street.
  - A. One space on the west corner of the intersection of First Street and South Carpenter Street.
  - B. One space on the west corner of the intersection of First Street and the alley entrance directly across from North Pleasant Street.

**69.12 SNOW EMERGENCY.** No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor, unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation throughout the duration of the snow or ice storm and the forty-eight (48) hour period after cessation of such storm except as above provided upon streets which have been fully opened. Such a ban shall be of uniform application and the Police Chief is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules under the emergency. The emergency may be extended or shortened when conditions warrant.

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

**69.13 FIRE LANES.** No person shall stop, stand, or park a vehicle in a fire lane as provided herein.

*(Code of Iowa, Sec. 321.236)*

1. Fire Lanes Established. The Fire Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.
2. Signs and Markings. Wherever a fire lane has been designated, the Fire Chief shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.

3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

[The next page is 371]

## CHAPTER 70

# TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation  
70.02 Scheduled Violations  
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended  
70.05 Presumption in Reference to Illegal Parking  
70.06 Impounding Vehicles

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

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

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

**70.02 SCHEDULED VIOLATIONS.** For violations of the Traffic Code 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 simple notice of a fine shall be in the amount of ten dollars (\$10.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00).

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

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

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

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

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

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

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

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

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

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

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

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

[The next page is 381]



## CHAPTER 75

# ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

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

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

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but that contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 2,000 pounds and 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. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

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

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

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

Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

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

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

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

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

- B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

- (2) The snowmobile is brought to a complete stop before crossing the street;

- (3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and

- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

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

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

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

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

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

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

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

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

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

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

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

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

### BICYCLE REGULATIONS

**76.01** Scope of Regulations

**76.02** Traffic Code Applies

**76.03** Double Riding Restricted

**76.04** Two Abreast Limit

**76.05** Speed

**76.06** Emerging from Alley or Driveway

**76.07** Carrying Articles

**76.08** Riding on Sidewalks

**76.09** Towing

**76.10** Improper Riding

**76.11** Parking

**76.12** Equipment Requirements

**76.13** Special Penalty

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

**76.07 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front emitting a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

**76.13 SPECIAL PENALTY.** Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

## **CHAPTER 77**

### **GOLF CARTS**

**77.01 Purpose**  
**77.02 Operation of Golf Carts Permitted**  
**77.03 Prohibited Streets**

**77.04 Equipment**  
**77.05 Hours**

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

**77.02 OPERATION OF GOLF CARTS PERMITTED.** Golf carts may be operated upon the streets of the City by persons possessing a valid driver's license, except as prohibited in Section 77.03 of this chapter.

**77.03 PROHIBITED STREETS.** Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension.

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

**77.05 HOURS.** Golf carts may be operated on City streets only between sunrise and sunset.

[The next page is 401]



## CHAPTER 80

### ABANDONED VEHICLES

**80.01 Definitions**

**80.02 Authority to Take Possession of Abandoned Vehicles**

**80.03 Notice by Mail**

**80.04 Notification in Newspaper**

**80.05 Fees for Impoundment**

**80.06 Disposal of Abandoned Vehicles**

**80.07 Disposal of Totally Inoperable Vehicles**

**80.08 Proceeds from Sales**

**80.09 Duties of Demolisher**

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

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

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

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

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

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

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

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

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

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

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder, or claimant shall pay 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 ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

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

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

[The next page is 425]

## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
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
90.05 Permit	90.15 Interior Valve
90.06 Connection Charge	90.16 Inspection and Approval
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 Public Works Director of the City 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.**

1. The owners of any houses, buildings or structures used for human occupancy, employment or use, situated within the City and abutting on any street, alley or right-of-way in which there is located a public water main are hereby required to connect such facilities to the City's public water system in accordance with the provisions of

these Water Service chapters within sixty (60) days after the date of official notice to do so, provided that said public water main is located within two hundred fifty (250) feet of the property line of such owner.

2. At such time as any private water well is in need of repair or replacement, the property owner must connect the property to the City's public water system if available. If title to a lot or parcel served by a private water well is transferred in whole or in part, the new owner of the lot or parcel must connect to the City's public water system if available. The final determination of availability shall be made by the Superintendent. Whenever a private water well system is in use in the City, water from that well may not be discharged into the City sewer system unless the owner of the private well complies with the annual well testing requirement contained in Section 99.04 (2) of this Code of Ordinances.

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

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

**90.06 CONNECTION CHARGE.** Before any permit is issued the person who makes the application shall pay a connection charge in the amount of one hundred dollars (\$100.00) for a connection within the City and six hundred dollars (\$600.00) for a connection outside the City to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

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

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

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

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

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a  $\frac{3}{4}$ -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 eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

**90.12 RESPONSIBILITY FOR WATER SERVICE PIPE.** All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from 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 twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

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

**90.19 OPERATION OF CURB VALVE AND HYDRANTS.** It is unlawful for any person except the Superintendent to turn water on 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.

[The next page is 431]



## CHAPTER 91

# WATER METERS

### 91.01 Purpose

### 91.02 Water Use Metered

### 91.03 Fire Sprinkler Systems; Exception

### 91.04 Location of Meters

### 91.05 Meter Setting

### 91.06 Meter Costs

### 91.07 Meter Repairs

### 91.08 Right of Entry

### 91.09 Separate Meter for Outside Watering

### 91.10 Meter Installation Fee

### 91.11 Meter Testing

**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 open 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 SEPARATE METER FOR OUTSIDE WATERING.** A residential customer may add a second water meter for the purpose of measuring water to be used from outside faucets and for outside watering, where the water so used does not enter the sanitary sewer system. The following regulations apply:

1. There shall be a two hundred dollar (\$200.00) non-refundable meter fee paid to the City.
2. The City will provide the water meter and check valve and will install the radio read device.
3. The meter must be installed by a licensed plumber.
4. Water service through outside water meters is subject to the rates established in Chapter 92 of this Code of Ordinances. No sewer charge will be assessed to water usage through the outside meter.
5. All rules and regulations pertaining to the care of water meters shall apply to the second meter.

**91.10 METER INSTALLATION FEE.** The property owner shall pay an installation fee of fifty dollars (\$50.00) for each new installation of a water meter to a  $\frac{3}{4}$ -line. Such meter is to remain the property of the City.

**91.11 METER TESTING.** The Superintendent shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay a testing charge of \$25.00.

[The next page is 435]

## CHAPTER 92

### WATER RATES

92.01 Service Charges  
92.02 Rates For Service  
92.03 Rates Outside the City  
92.04 Billing for Water Service  
92.05 Service Discontinued

92.06 Lien for Nonpayment  
92.07 Lien Exemption  
92.08 Lien Notice  
92.09 Customer Deposits  
92.10 Requested Discontinuance of Service

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

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

*(Code of Iowa, Sec. 384.84)*

1. Maintenance Charge. A monthly maintenance charge of \$4.00 per meter.
2. Usage Charge. A usage charge of \$2.20 for each 1,000 gallons of water used per month.

At the beginning of each fiscal year, the rates for water service will automatically increase by 3%. This increase will be subject to Council review July 1<sup>st</sup> of each fiscal year.

**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 following monthly rates.

1. Maintenance Charge. A monthly maintenance charge of \$4.00 per meter.
2. Usage Charge. A usage charge of \$4.40 for each 1,000 gallons of water used per month.

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. At the beginning of each fiscal year, the rates for water service will automatically increase by 3%. This increase will be subject to Council review July 1<sup>st</sup> of each fiscal year.

*(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 twentieth (20<sup>th</sup>) day of the each month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of one and one-half percent (1½%) of the amount due shall be added to each delinquent bill.

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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The City Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the City Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of fifty dollars (\$50.00) 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 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 ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

**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 thirty (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 required from every customer a one hundred dollar (\$100.00) deposit intended to guarantee the payment of bills for service.

*(Code of Iowa, Sec. 384.84)*

**92.10 REQUESTED DISCONTINUANCE OF SERVICE.** When water service has been turned on for use in any building or upon any premises, and the customer or the owner of the building or premises desires the water turned off, a payment of fifty dollars (\$50.00) shall be made in advance for turning the water service off. A payment of \$50.00 shall also be made in advance for restoring the water service. When water service has been discontinued by the City, it shall not be restored without the written consent of the Superintendent and payment in advance of the \$50.00 restoration fee.

[The next page is 451]

## CHAPTER 95

# SANITARY SEWER SYSTEM

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

95.07 Service Outside the City  
95.08 Right of Entry  
95.09 Use of Easements  
95.10 Special Penalties  
95.11 City Not Liable for Damages

**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. “Ammonia nitrogen” means nitrogen that exists as an ammonium ion or ammonia.
2. “Approving authority” means the City Council, or its duly authorized agent or representative.
3. “BOD<sub>5</sub>” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the aerobic oxidation of organic matter in five days, expressed in milligrams per liter, as determined in accordance with the standard laboratory procedure as set out in the latest E.P.A. approved edition of *Standard Methods for the Examination of Water and Wastewater*.
4. “Building drain” means that part of the lower horizontal piping of a drainage system which conveys it to the building sewer.
5. “Building sewer” means the extension from the building drain to the public sewer or other place of disposal; also called private service line ..
6. “COD” (denoting chemical oxygen demand) means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined by the standard laboratory procedures as set forth in the latest E.P.A. approved edition of *Standard Methods for the Examination of Water and Wastewater*.
7. “Category A” means those sanitary sewer users who discharge normal domestic strength wastewater with concentrations of BOD<sub>5</sub> no greater than 250 mg/l and total suspended solids no greater than 250 mg/l.
8. “Category B” means those sanitary sewer users who discharge wastewater with concentrations in excess of 250 mg/l BOD<sub>5</sub> and/or 250 mg/l total suspended solids.
9. “Combined sewer” means a sewer originally designed and currently designated to receive both surface water runoff and sewage.
10. “Compatible pollutants” means BOD<sub>5</sub>; TSS, phosphorous, nitrogen, pH, or fecal coliform bacteria, plus additional pollutants identified in the City’s NPDES

permit for its wastewater treatment facility; provided that such facility is designed to treat such additional pollutants.

11. “Contributor” or “customer” means any person, firm, corporation, unincorporated association or any other legal entity responsible for the production and discharge into the sanitary sewer system of the City, directly or indirectly, of any domestic or industrial waste, water and any and all other liquids or substances.

12. “Developer” means any person wishing to install public sewer to serve a proposed subdivision for speculation.

13. “Easement” means an acquired legal right for the specified use of land owned by others.

14. “Floatable oil” means oil, fat, or grease in a physical state such that it will separate from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free from floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system and/or causes no interferences with the NPDES permit.

15. “Ground garbage” means the residue from the preparation, cooking, dispensing, handling, storage, and sale of food products and produce, which substances have been shredded to such a degree that all particles will be carried freely in suspension under the normal flow conditions prevailing in the public sewer with no particle greater than one-half inch.

16. “Incompatible pollutant” means wastewater with pollutants that will adversely affect the wastewater treatment facility or disrupt the quality of wastewater treatment, if discharged to the wastewater treatment facility.

17. “Industrial wastes” means the solid, liquid, or gaseous wastes resulting from any industrial or manufacturing processes, trade or business, or from the development, recovery or processing of natural resources.

18. “Infiltration” means the seepage of groundwater into the public sewer system, including leakage of service connections, defective or cracked pipes, pipe joints, connections or manhole walls.

19. “Inflow” means clean water discharged into the sanitary sewer system from sources other than connections. This would include flow from yard drains, foundation drains, roof drains, basement sump pumps, around manhole covers, and storm sewer cross connections. Inflow differs from infiltration in that it is a direct discharge into the sanitary sewer system itself rather than a leak or defect in the sanitary sewer system.

20. “National Pollution Discharge Elimination System Permit” or “NPDES permit” means the system for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans by the Administrator of the Environmental Protection Agency pursuant to section 402 and 405 of the Federal Water Pollution Control Act Amendment 1972.

21. “Natural outlet” means any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

22. “Nitrogen” means Kjeldahl nitrogen, which is the sum of organic nitrogen and ammonia nitrogen.



23. "Normal domestic strength wastewater" means wastewater with concentrations of BODs no greater than 250 mg/l and total suspended solids no greater than 250 mg/l.
24. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
25. "Operation and maintenance costs" means all costs associated with the operation and maintenance of the wastewater treatment facility, all costs associated with the operation and maintenance of the collection system and administration costs, as determined from time to time by the City.
26. "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil, tar; chemicals, offal and other substances except wastewater and industrial wastes.
27. "Person" means any and all persons, including any individual, firm, company, association, society, corporation, municipal corporation, governmental unit, or group.
28. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
29. "Phosphorous" means total phosphorous and is expressed in mg/l as P (phosphorous).
30. "Process water" means any water used in the manufacturing, preparation, or production of goods, materials, or food. Process water is an industrial waste.
31. "Property" means a parcel of land owned by any person.
32. "Public road right-of-way" means a road owned and dedicated to a local unit of government. The local unit of government may or may not maintain this road.
33. "Public sewer" means any sewer accepted as a public sewer by the City Council.
34. "Replacement costs" means the expenditure for obtaining and installing the equipment, accessories, or appurtenances, which are necessary during the useful life of the wastewater treatment facility to maintain the capacity and performance for which such facilities were designed and constructed.
35. "Sanitary utilities" means and refers to wastewater, a system of sewage piping, wastewater pumping stations, or wastewater treatment or purification works and any and all auxiliary units or appurtenances thereunto belonging, now installed or which may hereafter be installed, which are owned by the City for public use.
36. "Sanitary wastes" means the liquid and water-carried wastes discharged from sanitary facilities and characterized by a composition typical of the waste emanating from an average residential connection.
37. "Service stub" means that portion of the private service commonly called the stub that is usually installed with the public sewer. The service stub includes only that portion of the private service located within the public road right-of-way, street, or utility easement.

38. "Sewage" (or the preferred term of "wastewater") means the sanitary wastes from residences, public buildings, institutions, industrial establishments, or other buildings.
39. "Sewer" means a pipe or conduit for carrying wastewater, industrial waste, or other waste liquids.
40. "Sewer service charge" means the charge or charges that is/are levied on users of the wastewater treatment facilities for payment of operation and maintenance expenses, debt service costs and other expenses or obligations of said facilities.
41. "Sewer system" means pipe lines or conduits, pumping stations, force mains, treatment facility and all other devices and appliances appurtenant thereto, used for collecting or conveying wastewater, industrial wastes, or other wastes to a point of ultimate disposal.
42. "Slug" means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour flow or five times the average 24-hour concentration of compatible pollutants, during normal operation and/or adversely affects the collection system and/or performance of the wastewater treatment facility.
43. "Standard methods" means the examination and analytical procedures as set forth in the most recently E.P.A approved addition of *Standard Methods for the Examination of Water and Wastewater*.
44. "Storm drain" means a transmission pipe that carries storm and surface water and drainage but excludes sewage and industrial wastes, other than unpolluted cooling or process water.
45. "Superintendent" means the person employed by the City, on behalf of the City, to oversee and direct the operation and maintenance of the sanitary utilities.
46. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, or settles in wastewater, or other liquids and which are removable by laboratory filtering, in accordance with the latest E.P.A. approved edition of *Standard Methods for the Examination of Water and Wastewater*.
47. "Unpolluted water" means clean water uncontaminated by industrial wastes or other wastes or water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving stream water quality standards.
48. "Wastewater" means the spent water that carries the waste products from residences, public buildings, institutions, industrial establishments or other buildings.
49. "Wastewater collection system" means the piping, structures, equipment, and processes required to collect and convey the wastewater to the wastewater treatment facility.
50. "Wastewater treatment facility" means an arrangement of devices and structures for treatment of wastewater, industrial waste, and biosolids (sludge) and is sometimes used as synonymous for "waste treatment plant" or "wastewater treatment plant" or "sewage treatment plant."

**95.03 SUPERVISION.** The sanitary utilities shall be under the control of the Council. At the first meeting in January of each year, the Mayor shall appoint, subject to the approval of the entire Council, a committee of two members of the Council, as Committee on Sanitary Utilities, to have supervision of the wastewater collection system and the wastewater treatment facility.

**95.04 SUPERINTENDENT.** The Superintendent of the sanitary utilities shall have the responsibility of supervising the operation and maintenance of the wastewater collection system and the wastewater treatment facility, and the following powers and duties:

1. Inspections and Tests. The Superintendent shall conduct necessary inspections, tests, and maintenance to assure compliance with the Iowa Department of Natural Resources rules and regulations and the provisions of this chapter.
2. Licensing. The Superintendent shall comply with the necessary Iowa Department of Natural Resources licensing requirements to operate the sanitary utilities.
3. Records and Reports.
  - A. The Superintendent shall maintain a complete and accurate record of all wastewater connections and manholes constructed showing the location and grades thereof.
  - B. The Superintendent shall maintain all NPDES records in accordance with the rules and regulations of the Iowa Department of Natural Resources and/or other regulatory agencies.
  - C. The Superintendent shall submit all month ending reports and biosolids reports per Iowa Department of Natural Resources (DNR) regulations.
  - D. The Superintendent shall file a duplicate set of all reports submitted to the DNR, with the City Clerk. These reports shall be filed at the same time as they are filed with the Iowa Department of Natural Resources.
  - E. The Superintendent shall report to the Council and/or the Committee on Sanitary Utilities, when requested to do so.
  - F. The Superintendent shall apply for permit renewal of the NPDES permit, in a timely manner.
  - G. The Superintendent shall perform such other duties as the Council may, from time to time, delegate.

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

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.  
*(Code of Iowa, Sec. 716.1)*
2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

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

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

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

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any wastewater 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])*

#### **95.06 SEWER CONNECTION REQUIRED.**

1. 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, provided that said public sewer is located within two hundred (200) feet (61 meters) 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.

2. All houses, buildings, or properties required to be connected to the public sewer, pursuant to subsection 1 of this section, shall make such connection on or before the following dates:

A. Newly constructed buildings shall be connected prior to commencement of use of the building.

B. Any buildings required to be connected as a result of a public sewer becoming available shall be connected within one year of the date that the public sewer becomes available.

3. Should any sewer connection as required by this section not be completed within the required time limit, the Superintendent shall serve the property owner with a written notice, giving such property owner 30 days within which to make the necessary connections. The property owner so served shall make the required connection within 30 days of the receipt of such written notice.

4. Should any person fail to make the connection within the 30 days following written notice from the Superintendent, the Superintendent may make connection of that person's property to the public sewer and levy the cost of such connection as a lien against the property.

5. Any person who has not made the required connection to the public sewer by the date specified in this section, or within the 30-day period following notification by the Superintendent, shall be fined \$75.00 per month. The Council may review each

case as needed. Such fine shall be collected from the date of the required connection to public sewer.

6. New connections to the sanitary sewer system shall be prohibited unless sufficient capacity, as determined by the City, is available in all downstream facilities, including capacity for flow and all compatible pollutants.

**95.07 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])*

**95.08 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.

**95.09 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.

**95.10 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 95.05, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

**95.11 CITY NOT LIABLE FOR DAMAGES.** The City does not guarantee constant sewer service to any customer. If lines become blocked, frozen, or plugged, the City shall not be held liable. The City will not be liable for any damages, for any failure to supply the service, or the interruption of the service for making repairs, connections, or extensions of the system or any other purpose that may be deemed necessary (e.g. sewer cleaning and maintenance).

[The next page is 465]

## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Connection Permit

96.02 Connection Fee

96.03 Plumber Required

96.04 Building Sewer Installation Permit

96.05 Excavations

96.06 Connection Requirements

96.07 Interceptors Required

96.08 Sewer Tap

96.09 Inspection Required

96.10 Property Owner's Responsibility

96.11 Abatement of Violations

**96.01 CONNECTION PERMIT.** Any person desiring to make a first time connection with the sewer system shall first file with the Clerk an application therefor, on a form furnished by the Clerk, setting forth the location and description of the property to be connected with the wastewater collection system and for what purpose the sewer is to be used. The Superintendent shall determine where the connection shall be made, give such instructions as shall insure a good connection and issue a permit.

**96.02 CONNECTION FEE.** Before any permit is issued, or connection to the sewer made, the person who makes the application shall pay a connection fee in the amount of two hundred fifty dollars (\$250.00) for a connection within the City and eight hundred dollars (\$800.00) for a connection outside the City.

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

**96.04 BUILDING SEWER INSTALLATION PERMIT.**

1. It is unlawful for any person to engage in the work or business of installing private sewer service lines (building sewers) and appurtenances without first obtaining a permit from the City. No person, unless authorized, shall uncover, make any connections with or opening into, alter, repair, or disturb any public or private sewer or appurtenance thereof, without first obtaining the written permit from the City Clerk.

2. Any person desiring to engage in such work shall make application to the City Clerk on forms supplied by the City, together with a fee in the amount of \$25.00. All permits issued shall be for one year, and each renewal shall be made by application together with a \$25.00 renewal fee.

3. Each applicant for a permit shall sign an agreement, on such form as may be supplied by the City Clerk, agreeing to pay the City the actual cost of repair for any damage caused to the wastewater collection system by the applicant or any employees or agents. This agreement shall accompany the permit application.

4. Each applicant for a permit shall accompany the application with a certificate of insurance from a company acceptable to the City Clerk showing public liability insurance coverage with limits of at least \$250,000.00 per person; \$500,000.00 per occurrence and \$10,000.00 for property damage. The certificate shall specifically state that such insurance covers underground operations and shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least 15 days' prior written notice has been given to the City Clerk.

5. Any person whose permit is denied or revoked by the City Clerk may appeal said denial or revocation to the City Council.

**96.05 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.

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

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. **Water Lines.** When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. **Size.** Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. **Alignment and Grade.** All building sewers shall be laid to a straight line to meet the following:
  - A. Recommended grade at one-fourth (1/4) inch per foot.
  - B. Minimum grade of one-eighth (1/8) inch per foot.
  - C. Minimum velocity of 2.00 feet per second with the sewer half full.
  - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. **Depth.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. **Sewage Lifts.** In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.



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

- A. Ductile iron water pipe – A.W.W.A. C-151.
- B. PVC – SDR 23.5 or SDR 26.
- C. Schedule 40 PVC pipe.

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

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer. Violations of this subsection will be subject to a \$150.00 per day penalty.

14. Abandoned Connections. Whenever a building sewer is abandoned or renewed with a new connection to a sewer main, all abandoned connections with the mains shall be disconnected at the main and made absolutely watertight.

**96.07 INTERCEPTORS REQUIRED.** Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, restaurants, meat lockers, 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 operation at all times. Proof of such maintenance, in the form of a maintenance schedule, shall be provided to the Superintendent upon request.

**96.08 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, silicone sealer, 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.

**96.09 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect 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.

**96.10 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.

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

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

[The next page is 473]

## **CHAPTER 97**

### **USE OF PUBLIC SEWERS**

**97.01 Storm Water**  
**97.02 Prohibited Discharges**  
**97.03 Restricted Discharges**  
**97.04 Restricted Discharges; Powers**  
**97.05 Special Facilities**

**97.06 Control Manholes**  
**97.07 Testing of Wastes**  
**97.08 Allocation of Flow and Loading Capacity**  
**97.09 Accidental Discharges of Prohibited Wastes**

#### **97.01 STORM WATER.**

1. No person shall discharge or cause to be discharged any water from any roof, surface, groundwater sump pump, footing tile, swimming pool, or other natural precipitation into the wastewater collection system. Dwellings and other buildings and structures that require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge system shall have a permanently installed discharge line, which shall not at any time discharge water into the public wastewater collection system. A permanent installation shall be one that provides for year-round discharge capability to either the outside of the dwelling, building, or structure, or is connected to a storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid discharge line, without valves or quick connections for altering the path of discharge. If connected to a storm sewer, it shall include a check valve and an air gap.

2. Every person owning property with a structure that is connected to the wastewater collection system shall allow the Superintendent to inspect the building to confirm that there is no sump pump or other prohibited discharge into the wastewater collection system. The City may periodically re-inspect any building or premises to determine compliance with the requirements of this section.

3. Any person, owner, lessee, plumber, or building contractor who has presently made or permitted to be made or shall make or permit to be made, any connection or installation in violation of this section, shall immediately remove such connection or correct such installation. If not removed or corrected within 30 calendar days after notice of the violation has been delivered personally or by certified mail to such person, owner, or lessee, the City may impose a surcharge in the amount provided in subsection 4 of this section. Such a surcharge may also be imposed upon any property owner or lessee who, after a 30-calendar-day notice, refuses to allow such property to be inspected. The owner or lessee of a building or premises found to be in violation of this section during a periodic re-inspection may also be subjected to the surcharge.

4. A surcharge of one hundred dollars (\$100.00) per month is hereby imposed on the sewer bill of property owners who are not in compliance with this section or who have refused to allow their property to be inspected to determine if there is compliance. All properties found to be in violation of this section during yearly re-inspections will be subject to the \$100.00 per month penalty for all months between the two most recent inspections.

**97.02 PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged, directly or indirectly, 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 water 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 wastewater treatment facility or the wastewater collection system.
3. Corrosive Wastes. Any water or wastes having a pH lower than 6.0 or greater than 9.0 or having any other corrosive property capable of causing damage or hazard to the wastewater
4. Solid or Viscous Substances. Solid or viscous substances, either whole or ground, in quantities of such size capable of causing obstruction to the flow in sewers, or other interference with the proper continuation of the wastewater facilities, including but not limited to, ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshing, entrails, sanitary napkins, paper dishes, cups, milk containers and other paper products
5. Noxious or Malodorous Gases. Noxious or malodorous liquids, gases or substances which either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

**97.03 RESTRICTED DISCHARGES.** No person shall discharge or cause to be discharged, directly or indirectly, the following described substances to any public sewer unless, in the opinion of the Superintendent, such discharge will not harm the wastewater treatment facilities, or cause obstruction to the flow in the wastewater collection system, or otherwise endanger life, limb or public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent may 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 wastewater treatment facility, the City's NPDES permit, and other pertinent factors. The Superintendent may make such determinations either on a general basis or as to discharges from individual users or specific discharges, and may restrict certain discharges from individual users because of unusual concentrations or combinations, which may occur. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F. (65 degrees C) leaving the building or in excess of one hundred three (103) degrees F. (39.4 degrees C) entering the wastewater treatment plant .
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees F. (0 degrees C) and one hundred fifty (150) degrees F. (65 degrees C).

3. Garbage. Any garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension. No garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be installed in any building that is connected, directly or indirectly, to a public sewer without prior approval of the City. The City shall not approve any garbage grinder that does not grind garbage to a degree so that no particle is greater than one-half inch in any dimension and shall be empowered to order that any garbage grinder, regardless of its size or when it was installed, which does not grind garbage to a degree so as to make it acceptable under this subsection, not be used to grind garbage that is thereafter, directly or indirectly, discharged into a public sewer.
4. Acids. Any water or waste containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
5. Odor or Taste. Any water or waste containing phenols or other waste or odor producing substances which constitute a nuisance or hazard to the structures, equipment or personnel of the sanitary utilities, or which interfere with the treatment required to meet the requirements of the State and Federal government and any other public agency with proper authority to regulate the discharge from the wastewater treatment facility.
6. Radioactive Wastes. Radioactive wastes or isotopes of such half-life or concentration that they are in non-compliance with regulations issued by the appropriate authority having control over their use or which have caused or may cause damage or hazards to the treatment works or personnel operating it.
7. Unusual Wastes. Materials that exert or cause:
  - A. Unusual concentrations of suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D.5, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting a slug.
  - E. Wastewater containing substances that are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements of the NPDES permit or requirements of other governmental agencies having jurisdiction over discharges from the wastewater treatment facility .
8. Incompatible Pollutants. Incompatible pollutants in excess of the allowed limits as determined by local, State, and Federal laws and regulations in reference to pretreatment standards, developed by the Environmental Protection Agency, 40 CFR 403, as amended from time to time.

**97.04 RESTRICTED DISCHARGES – POWERS.** If any waters or wastes are discharged or are proposed to be discharged, directly or indirectly, to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.03 and which in the judgment of the Superintendent may have a deleterious effect upon the treatment works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Refuse to accept the discharges; or
2. Require control over the quantities and rates of discharge; or
3. Require pretreatment to an acceptable condition for the discharge to the public sewers in accordance with the Environmental Protection Agency Pretreatment Standards 40 CFR 403; or
4. Require payment to cover the added cost of handling and treating the wastes; or
5. Require the potential discharger to apply for and be issued a yearly permit to allow discharge into the City wastewater collection system. The permit shall be in writing and may require any or all of the items set out in subsections 1 through 4 above and such other requirements as may be determined necessary to protect the system as established by the City. After the initial permit has been issued, subsequent permits may be applied for in the month of January of the following year. The application shall be in writing and in such form as may be required by the City.

**97.05 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 Council 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.

**97.06 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.

**97.07 TESTING OF WASTES.**

1. The Superintendent may conduct such tests as are necessary to enforce this chapter and employees of the City may enter upon any property for the purpose of taking samples, obtaining information, or conducting surveys or investigations relating to such enforcement. Entry shall be made during operating hours unless circumstances require otherwise. In all cases where tests are conducted by the City for the purpose of checking to determine if a previously found violation of this chapter has been corrected, the cost of such tests shall be charged to the user and added to the user sewer service charge. In those cases where the Superintendent determines that the nature of volume of a particular user's wastewater requires more frequent than normal testing, the City may charge such user for the tests, after giving the user ten

(10) days' written notice of its intention to do so, and the cost thereof shall be added to the user's sewer charge. In any case where industrial wastes are discharged to a public sewer, the Superintendent may require the user, at the user's own expense, to test such user's discharge on a regular basis and to report the test results to the Superintendent within a two-week period. All such tests shall be as ordered by the Superintendent and shall be conducted by qualified personnel and in accordance with the standards set out in this section.

2. 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 E.P.A. approved 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).

**97.08 ALLOCATION OF FLOW AND LOADING CAPACITY.** The City shall allocate and regulate the flow and loading capacity of residential, commercial, and industrial users so as to:

1. Protect the public health and welfare.
2. Prevent the surcharging, blockage, or overflow of sanitary sewer lines.
3. Prevent the overloading of the treatment plant.
4. Comply with any and all NPDES permits.
5. Provide critical assistance to long-term planning within the City.

The allocation of flow and loading capacity shall be reviewed annually and amended as needed. Flow and loading capacity allocations shall be specified in a treatment agreement adopted by the City from time to time. The City has the right and authority to refuse to permit the discharge of new or expanded flow or loading.

**97.09 ACCIDENTAL DISCHARGES OF PROHIBITED WASTES.** Accidental discharges of prohibited waste into the sewage works, directly or through another disposal system, or to any place from which such waste may enter the treatment works, shall be reported to the Superintendent, by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of such discharge. A notice shall be permanently posted on the user's bulletin board or other prominent place, advising employees of the emergency notifications procedure in the event of a slug or accidental discharges. Notifications will allow measures to be taken to minimize damage to the treatment facilities. Notification will not relieve the user of liability for any expense, loss, or damage to the treatment facilities, or for fines imposed on the City by any State or Federal agency as a result of their actions. In addition to penalties that may be imposed for violation of any provision of this chapter, the City may assess against

the user/owner the cost of repairing or restoring sewers and associated facilities damaged as a result of the discharge of prohibited wastes and may collect the assessment as an additional charge for the use of the public sewer system.

[The next page is 483]



## CHAPTER 98

### ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited  
98.02 When Required  
98.03 Compliance with Regulations  
98.04 Permit Required

98.05 Discharge Restrictions  
98.06 Maintenance of System  
98.07 Systems Abandoned  
98.08 Disposal of Septage

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

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

**98.02 WHEN REQUIRED.** When a public sanitary sewer is not available under the provisions of Section 95.06, 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 95.06, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

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

## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Sewer Service Charges  
99.03 Reassignment of Sewer User  
99.04 Private Water Systems

99.05 Payment of Bills  
99.06 Lien for Nonpayment  
99.07 Special Agreements Permitted  
99.08 Sewer Revenue Funds

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every contributor shall pay to the City sewer service charges as hereinafter provided. Where a premises is divided into separate units, apartments, buildings, or connections; each unit, apartment, building, or connection shall be considered a separate and distinct contributor whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

#### **99.02 SEWER SERVICE CHARGES.**

1. Category A Contributors. Each Category A contributor shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

- A. Fixed Monthly Charge. A fixed monthly charge of \$15.00.
- B. Usage Charge Within City. A usage charge of \$4.39 for each 1,000 gallons of water used per month with a monthly minimum usage billing of 1,000 gallons.
- C. Usage Charge Outside City. A usage charge of \$6.58 for each 1,000 gallons of water used per month with a monthly minimum usage billing of 1,000 gallons.

2. Category B Contributors. Each Category B contributor shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

- A. Fixed Monthly Charge. A fixed monthly charge of \$15.00.
- B. Usage Charge Within City. A usage charge of \$4.39 for each 1,000 gallons of water used per month with a monthly minimum usage billing of 1,000 gallons.
- C. Usage Charge Outside City. A usage charge of \$6.58 for each 1,000 gallons of water used per month with a monthly minimum usage billing of 1,000 gallons.
- D. Surcharge. Each Category B contributor who discharges wastewater with concentrations in excess of 250 mg/l BOD<sub>5</sub> and 250 mg/l total suspended solids shall pay a surcharge in accordance with the following:

BOD<sub>5</sub> greater than 250 mg/l = \$0.15493 per lb.

TSS greater than 250 mg/l = \$0.14427 per lb.

At the beginning of each fiscal year, the sewer service charges will automatically increase by 3%. This increase will be subject to Council review on July 1 of each fiscal year.

**99.03 REASSIGNMENT OF SEWER USERS.** The City Council, upon recommendation from the Committee on Sanitary Utilities will reassign sewer users into appropriate sewer service charge categories if the wastewater sampling program or other related information indicates a change of categories is necessary.

**99.04 PRIVATE WATER SYSTEMS.**

1. Customers whose premises are served by a private water system shall pay a monthly sewer service charge based on water usage. The customer must have a water meter installed, at the customer's expense, for the purpose of metering the water system. The City may negotiate a flat fee or may charge a rental charge for each meter installed, to compensate for the cost of the furnishing and servicing of the meter. The rental charge shall be billed at the time the sewer service charge is billed.
2. Any private water well discharging water into the public wastewater system may be tested annually by the City at the owner's expense. The City may discontinue sewer service if the continued discharge into the public wastewater system from a private well poses a hazard to the operation of the wastewater sewer system.

**99.05 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 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.

**99.06 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 premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.07 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council. No special agreement or arrangement between the City or any industry shall allow discharges which would upset the treatment plant, pass through the treatment causing water quality violations, cause problems with sludge disposal, or violate federal categorical pretreatment standards.

**99.08 SEWER REVENUE FUNDS.**

1. Operation and Maintenance Fund. All sewer service charge revenues collected for operation and maintenance of the wastewater system shall be deposited in a separate and distinct fund to be known as the O & M Sewer Fund and disbursed only upon resolution of the Council and only for the purpose of paying the cost of

financing the operation, maintenance, repair, construction or reconstruction of the sanitary utilities, including any and all other expenses rightly chargeable to the fund by the laws of the State.

2. Replacement Fund. All sewer service charge revenues collected for replacement costs of the wastewater system shall be deposited in a separate and distinct fund called the Replacement Fund.

[The next page is 501]

## CHAPTER 100

# STORM WATER MANAGEMENT

100.01 Purpose	100.06 Submission and Approval of Plan
100.02 Definitions	100.07 Ownership by City
100.03 Areas Requiring a Storm Water Management Plan	100.08 Private Ownership
100.04 Storm Water Management Plan Requirements	100.09 Further Requirements
100.05 Storm Water Management Plan Design Requirements	

**100.01 PURPOSE.** It is the purpose of this chapter to establish policies to manage and control storm water runoff occurring from new development of residential, commercial, and industrial areas. The goal is to reduce peak runoff caused by development of land. This will result in cost savings to the overall storm sewer collection system by reducing the size of improvements required. In addition, increased safety and erosion control would be expected benefits.

**100.02 DEFINITIONS.** Wherever used in this chapter, the terms listed below will have the meanings indicated.

1. "Capacity" (of a storm water facility) means the maximum volume or rate of conveyance available in a storm water management facility, including freeboard, to store or convey storm water without damage to public or private property.
2. "Civil engineer" means a professional engineer licensed in the State of Iowa to practice in the field of civil works.
3. "Control structure" means part of a storm water management facility designed to regulate the storm water runoff release rate.
4. "Design storm" means a storm with characteristics of the average storm for the desired return frequency.
5. "Detention basin" means a storm water management facility designed, constructed, or modified to provide short term storage of storm water runoff, which reduces the peak outflow to a rate less than the peak inflow.
6. "Developed condition" means hydraulic and hydrologic site characteristics that occur upon completion of a development.
7. "Development" means the improvement of land from its existing state or an area of land improvement.
8. "Drainage area" means the area of land contributing to storm water runoff.
9. "Freeboard" means the distance from the maximum water level to the top of retention basin.
10. "Overflow path" means the path taken by storm water runoff as a result of flows exceeding the capacity of the underground drainage system or detention basin. The path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.
11. "Planning and Zoning Commission" means the Planning and Zoning Commission of Sumner, Iowa.

12. "Pre-developed condition" means hydraulic and hydrologic site characteristics that occur prior to a proposed development, including natural storage areas, drainage ways, drainage tiles and highway drainage structures.
13. "Regional storm water management facilities" means those facilities designed to handle storm water runoff from several lots, which may include the entire subdivision, or multiple subdivisions, and may include existing developed areas.
14. "Return frequency" means the statistic parameter that defines the average occurrence time for a storm of a given magnitude.
15. "Site" means a lot, parcel, or tract of land, or portion thereof, where development is occurring or has occurred, and may, or may not require additional permits.
16. "Site plan" means an overall plan of the area to be developed, including (but not limited to) proposed building locations, proposed parking and drive locations, proposed utilities, including storm sewer components and subsurface drain tile, proposed ground elevations with drainage patterns highlighted, roof drainage outlet locations, other underground utilities, and property boundaries.
17. "Storm sewer system" means facilities for the conveyance of storm water runoff, a series of conduits and appurtenances, to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutter, and swales.
18. "Storm water management facilities" means a detention basin and the associated appurtenances to make the system functional.
19. "Storm water management plan" means a site plan, certified by a Civil Engineer, including materials, construction phasing, grading activities, and methods used for mitigation of increased storm water runoff from the site.
20. "Storm water runoff" means the flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.
21. "Zoning Administrator" means the Zoning Administrator of the City of Sumner, Iowa.

**100.03 AREAS REQUIRING A STORM WATER MANAGEMENT PLAN.** A storm water management plan shall be required for:

1. All new residential subdivisions and re-subdivision and all new commercial and industrial subdivisions of any size. Commercial and industrial development taking place on existing platted lots larger than one-half acre in size are also required to comply with this chapter by submitting a storm water management plan. Phased developments for residential or commercial/industrial as a part of a larger planned development must comply as well.
2. Other developments may be required to submit a storm water management plan at the discretion of the Council or the Planning and Zoning Commission if topography of the site and planned improvements may have an adverse effect on downstream runoff. No subdivision or development plan will be approved unless adequate drainage will be provided to an appropriate storm sewer, drainage watercourse, or storm water management facility.



3. At the discretion of the Council, a fee may be charged the developer in lieu of providing storm water management facilities. This may be utilized when the City is constructing a larger regional storm water management facility to handle multiple existing or proposed developments.

**100.04 STORM WATER MANAGEMENT PLAN REQUIREMENTS.** The storm water management plan shall include, but not be limited to, the following information:

1. Peak discharges for pre-developed and developed conditions based upon the design storms.
2. Individual parameters used for determining discharges shall be listed.
3. Hydraulic capacity of storm sewer inlets, pipes, open channels or other means of conveying water.
4. Detention basin design with capacity listed.
5. Control structure/outlet design.
6. Review of existing or proposed downstream conveyance capacities.
7. The SCS TR-55 computerized runoff volume program or other technically proven method shall be utilized for runoff calculations.

**100.05 STORM WATER MANAGEMENT PLAN DESIGN REQUIREMENTS.** The design requirements of the storm water management plan shall include:

1. Developments requiring storm water management shall be required to detain the difference between the 5-year pre-developed storm and the 100-year developed storm.
2. The maximum release rate for storms up to an expected return frequency of 100 years shall be the 5-year pre-developed storm. A safe overflow path shall be designed for storms exceeding the capacity of the detention basin.
3. Regional storm water management facilities are encouraged.
4. For residential developments, storm water detention is not allowed within any front or side yard setbacks required by the Zoning Code, or within 25 feet from the estimated rear building line.
5. Dry-bottomed detention basins shall be oversized by 10% to help offset anticipated sedimentation.
6. Maximum side slopes of detention basins shall not exceed 3.5:1.
7. Provision shall be made to keep the bottom of the detention basin dry unless a permanent pond or lake is being utilized for detention.

**100.06 SUBMISSION AND APPROVAL OF PLAN.** A storm water management plan shall be a required attachment of a subdivision, site or development plan, all of which is to be submitted to the Council or Planning and Zoning Commission for review. The storm water management plan, including proposed storm water detention facilities, shall be reviewed and approved by the Council or Planning and Zoning Commission prior to the issuance of any building permit for the proposed development. The City may inspect the site at any time to determine compliance with this chapter. Upon determination that a site is not in compliance with this chapter, the City may issue an order to comply. The order shall describe the

problem, specify a completion date, and indicate the penalties to be assessed for further noncompliance.

**100.07 OWNERSHIP BY CITY.** Regional storm water management facilities that are of sufficient size may be deeded to and maintained by the City. The conditions for City ownership will be reviewed on a case-by-case basis. The City is under no obligation to accept ownership of the facility. If the City elects to obtain ownership of the facility, the property owner shall dedicate to the City any property on which public storm water detention basins will be located. Ingress-egress easements for maintenance of public facilities shall be provided prior to final approval.

**100.08 PRIVATE OWNERSHIP.** For sites on which privately owned storm water detention facilities are located, the property owner will be responsible for the following:

1. All future grading, repairs, and maintenance.
2. Maintenance of the minimum storm water detention capacity, as originally designed.
3. Maintenance of the detention basin control structures and discharge pipes to insure the maximum theoretical design release rate is not increased.
4. The property owner shall not place fill material, or erect any buildings, obstructions, or other improvements on the area reserved for storm water detention purposes, unless approved in writing by the City.

**100.09 FURTHER REQUIREMENTS.** Compliance with this chapter does not relieve the developer of other responsibilities relating to storm water discharge. This includes, but is not limited to, NPDES storm water discharge permits regulated by the Iowa Department of Natural Resources, and other State and Federal requirements.

[The next page is 525]

## CHAPTER 105

### SOLID WASTE CONTROL

105.01 Purpose  
105.02 Definitions  
105.03 Sanitary Disposal Required  
105.04 Health and Fire Hazard  
105.05 Open Burning Restricted  
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited  
105.08 Open Dumping Prohibited  
105.09 Toxic and Hazardous Waste  
105.10 Waste Storage Containers  
105.11 Prohibited Practices

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.  
*(Code of Iowa, Sec. 455B.361[2])*
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.  
*(IAC, 567-100.2)*
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.  
*(IAC, 567-20.2[455B])*
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris.  
*(Code of Iowa, Sec. 455B.361[1])*
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.  
*(IAC, 567-100.2)*

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

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

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ( $\frac{1}{4}$ ) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(IAC, 567-23.2[3e])*

6. 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])*

7. 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])*

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(IAC, 567-23.2[2])*

**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, deposited at the City's yard waste disposal

site, or placed in acceptable containers and set out for collection in accordance with procedures therefor established by the City. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

*(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)*

**105.09 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste 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])*

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

- A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Containers shall not exceed thirty-five (35) gallons in capacity or fifty (50) pounds in weight. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing

or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed 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 twenty-four (24) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

3. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

**105.11 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste 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

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection  
106.05 Bulky Rubbish

106.06 Right of Entry  
106.07 Collection Fees  
106.08 Customer Deposits  
106.09 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week. However, any business establishment that handles or serves foods shall have its solid waste collected at least three times per 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 upon request in accordance with procedures therefor established by the City.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

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

*(Goreham vs. Des Moines, 1970, 179 NW 2<sup>nd</sup>, 449)*

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:

A. Residential Premises. The fee for each residential premises and for each dwelling unit of a multiple-family dwelling is \$12.00 per month for the

collection of one 35-gallon container or bag each week. Each additional 35-gallon container or bag set out for collection must have a tag attached thereto; the cost of each tag is \$3.00. Provided, however, a customer may opt to have an additional 35-gallon container or bag collected each week for an additional fee of \$15.00 per month. The additional fee shall be billed monthly for a minimum of one year and may be renewed by the customer at the completion of each year.

B. Commercial, Industrial and Institutional Premises. The monthly fee for each commercial, industrial, and institutional premises shall be based on the number of collections per week times the fee set forth in the following table.

Volume	Fee
One yard and less	\$13.46
One and one-half yards and up	\$16.83
Two yards and up	\$20.20
Three yards and up	\$23.56
Four yards and up	\$26.94
Five yards and up	\$30.30
Six yards and up	\$33.67
Seven yards and up	\$37.01

C. Rates Outside the City. If the City collects solid waste from any premises outside the City limits, the monthly fee for each residential premises is \$15.12, and an additional monthly fee of \$15.12 will be added to the fee imposed pursuant to the table above for each commercial, industrial, and institutional premises.

D. Premium Charges. In addition to the charges set out above, the following premium charges will be collected by the City from each owner or occupant of each occupied dwelling or business in the City.

\$15.00 for each piece of furniture.

\$30.00 per cubic yard of regular waste.

\$60.00 per cubic yard of demolition waste.

At the beginning of each fiscal year, the fees for solid waste collection and disposal service will automatically increase by 3%. This increase will be subject to Council review on July 1 of each fiscal year.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.08 CUSTOMER DEPOSITS.** Every customer, who is not required to make a deposit for water service, shall pay a fifty dollar (\$50.00) deposit intended to guarantee the payment of bills for solid waste service.

**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 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)*

[The next page is 551]

## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Franchise Granted

110.02 Term

110.03 Governing Rules and Regulations

110.04 Franchise Fees

110.05 Construction and Maintenance of Facilities

110.06 Extension of Facilities

110.07 Relocation of Facilities

110.08 Confidential Information

110.09 Force Majeure

110.10 Hold Harmless

110.11 Nonwaiver

**110.01 FRANCHISE GRANTED.** The City hereby grants a nonexclusive franchise to Black Hills Energy (hereinafter called “Grantee”), its lessees, successors, and assigns. Grantee is hereby granted the right, privilege, franchise, permission, and authority to lay, construct, install, maintain, operate, and extend in, along, over, or across the present and future streets, alleys, avenues, bridges, public rights-of-way, and public places as are now within the present or future limits of the City, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of the City and consumers in the vicinity thereof, and for the distribution of natural gas from or through the City to points beyond the limits thereof. Such facilities include (but are not limited to) all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing, and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of the City and in carrying on such business.

**110.02 TERM.** The rights and privileges granted by this chapter shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter, subject to cancellation at the end of the tenth year. The City Clerk shall notify Grantee in writing at least 180 days before the expiration of the initial term if the City desires not to renew the franchise.<sup>†</sup>

### 110.03 GOVERNING RULES AND REGULATIONS.

1. The franchise is granted subject to all conditions, limitations, and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of the City and the rules and regulations regarding the character, quality, and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided, however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then the Grantee and City shall renegotiate the terms of this chapter in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this chapter shall take precedence over any

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 108, adopting a natural gas franchise for the City, was passed and adopted on October 3, 2005.

conflicting terms or requirements contained in any other ordinance enacted by the City.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations are uniform as applied to each class of customers or prospective customers, and are non-discriminatory as between communities receiving service from the Grantee.

**110.04 FRANCHISE FEES.** The City may, during the term of the franchise, in its discretion after public hearing, but not more than once a year, and upon an affirmative vote of all of the members of the Council, impose a franchise fee on customers located within the corporate City limits in an ordinance form satisfactory and acceptable to Grantee. The form of assessment and collection of the franchise fee approved by the City must be based on one of the following methods: (i) percentage of gross receipts of regulated sales or transportation revenues collected within the City; (ii) volumetric fee based on the delivery of energy within corporate City limits; or (iii) flat fee collected from customers on a nondiscriminatory basis who are located within the City; provided however, no franchise fee shall be effective against Grantee unless and until the City imposes a fee or tax of the same percentage or other method on the gross revenues, delivery or customers of all other energy suppliers. The City may request that Grantee propose ordinance language that will apply the permitted franchise fee.

**110.05 CONSTRUCTION AND MAINTENANCE OF FACILITIES.** Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the City and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee agrees that for the term of the franchise, it will maintain facilities and equipment sufficient to meet the current and future energy requirements of the City, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify the City as soon as reasonably possible. The City will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the City will start the work, and if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

**110.06 EXTENSION OF FACILITIES.** Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of the City.

**110.07 RELOCATION OF FACILITIES.** If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the City, at the cost and expense of Grantee. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

**110.08 CONFIDENTIAL INFORMATION.** The City acknowledges that certain information it might request pursuant to this chapter may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to the City be kept confidential due to such proprietary or commercial value, the City and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If the City is requested or required by legal or administrative process to disclose any such confidential information, the City shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. The City shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

**110.09 FORCE MAJEURE.** It shall not be a breach or default under this chapter if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure includes, but is not limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; (ii) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; (iii) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, this provision shall not obligate a party to settle any labor strike.

**110.10 HOLD HARMLESS.** Grantee, during the term of the franchise, agrees to save harmless the City from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided,

however, Grantee need not save harmless the City from claims, demands, losses and expenses arising out of the negligence of the City, its employees or agents.

**110.11 NONWAIVER.** Any waiver of any obligation or default under the franchise shall not be construed as a waiver of any future defaults, whether of like or different character.

[The next page is 561]



## CHAPTER 111

### CEMETERY

111.01 Definition  
111.02 Trusteeship  
111.03 Public Works Department  
111.04 Records

111.05 Sale of Interment Rights  
111.06 Perpetual Care  
111.07 Rules and Regulations

**111.01 DEFINITION.** The term “cemetery” means the Union Mound Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.  
(*Code of Iowa, Sec. 523I.501*)

**111.02 TRUSTEESHIP.** Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.  
(*Code of Iowa, Sec. 523I.502*)

**111.03 PUBLIC WORKS DEPARTMENT.** The Public Works Department shall operate and maintain the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.  
(*Code of Iowa, Sec. 372.13[4]*)

**111.04 RECORDS.** It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:  
(*Code of Iowa, Sec. 523I.311*)

1. Sales or Transfers of Interment Rights.
  - A. The name and last known address of each owner or previous owner of interment rights.
  - B. The date of each purchase or transfer of interment rights.
  - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
  - A. The date the remains are interred.
  - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
  - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

**111.05 SALE OF INTERMENT RIGHTS.** The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of

the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

*(Code of Iowa, Sec. 523I.310)*

**111.06 PERPETUAL CARE.** The Council, by resolution, shall accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery or interment spaces that have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

*(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)*

**111.07 RULES AND REGULATIONS.** Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

*(Code of Iowa, Sec. 523I.304)*

[The next page is 641]

## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

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

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

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

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

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

*(Code of Iowa, Sec. 123.30)*

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

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

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may

sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

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

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

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

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

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

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

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

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

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

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

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

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

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

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

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.
2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
*(Code of Iowa, Sec. 453A.1)*

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “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.
7. “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.

**121.02 PERMIT REQUIRED.**

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

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

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

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco 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 (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

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

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

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

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

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

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

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

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

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.



2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

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

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

**121.08 SELF-SERVICE SALES PROHIBITED.** Beginning January 1, 1999, 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 cigarettes or tobacco products, in a quantity of less than a carton, 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 thirty (30) days of the revocation or suspension.

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

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## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose  
122.02 Definitions  
122.03 License Required  
122.04 Application for License  
122.05 License Fees  
122.06 Bond Required  
122.07 License Issued  
122.08 Display of License  
122.09 License Not Transferable

122.10 Time Restriction  
122.11 Revocation of License  
122.12 Hearing  
122.13 Record and Determination  
122.14 Appeal  
122.15 Effect of Revocation  
122.16 License Exemptions  
122.17 Charitable and Nonprofit Organizations

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the City Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of ten dollars (\$10.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the City Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of five dollars (\$5.00) per year.
2. Peddlers or Transient Merchants.
  - A. For one day.....\$5.00
  - B. For one week .....\$10.00
  - C. For up to six (6) months .....\$20.00
  - D. For one year or major part thereof.....\$25.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**122.07 LICENSE ISSUED.** If the City Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

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

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

**122.11 REVOCATION OF LICENSE.** Following a written notice and an opportunity for a hearing, the City Clerk may revoke any license issued pursuant to this chapter for the following reasons:

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

The City Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

**122.12 HEARING.** The City Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the City Clerk may proceed to a determination of the complaint.

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

**122.14 APPEAL.** If the City Clerk revokes or refuses to issue a license, the City Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the City Clerk by a majority vote of the Council members present and the City Clerk shall carry out the decision of the Council.

**122.15 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.16 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Sumner and Fredericksburg School Districts 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.

**122.17 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the City 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 City Clerk finds that the organization is a bona fide charity or nonprofit organization, the City Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the City Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

[The next page is 655]

## CHAPTER 123

### HOUSE MOVERS

123.01 House Mover Defined  
123.02 Permit Required  
123.03 Application  
123.04 Bond Required  
123.05 Insurance Required  
123.06 Permit Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000 per person; \$100,000 per accident.
2. Property Damage – \$50,000 per accident.

**123.06 PERMIT FEE.** A permit fee of five hundred dollars (\$500.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

**123.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

**123.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

[The next page is 659]



## CHAPTER 124

### JUNK DEALERS AND JUNK YARDS

#### 124.01 Definitions

#### 124.02 Permit Required

#### 124.03 Notification of Application

#### 124.04 Permit Nontransferable

#### 124.05 Revocation of Permit

#### 124.06 Right of Entry

#### 124.07 Requirements for Junk Yards

#### 124.08 Other Requirements

**124.01 DEFINITIONS.** Except where otherwise indicated by the context, the following definitions apply in the interpretation and enforcement of this chapter:

1. “Inoperable motor vehicle” means any motor vehicle which lacks: (i) current registration; or (ii) two or more wheels or other component parts, the absence of which renders the vehicle totally unfit for legal use on the highways.
2. “Junk” means old or scrap copper; brass; lead or other nonferrous metal; old rope; rags; batteries; paper; trash; rubber debris; waste; dismantled or inoperable vehicles, machinery and appliances; iron, steel or other old or scrap ferrous material; old discarded glass, tinware, plastic or discarded household goods or hardware.
3. “Junk dealer” means any person who buys, sells, transfers, delivers or stores junk, including all persons who carry on such business at a junk shop or junk yard or as a peddler and any person who by advertisement, sign or otherwise, holds himself or herself out as a junk dealer, or dealer in old discarded metals, machinery, rags, paper stock and the like.
4. “Junk shop” means any building or structure in which a junk dealer stores or places junk in connection with a business of buying, selling or trading junk.
5. “Junk yard” means any place not fully enclosed in a building, used in whole or in part for the storage or deposit of junk, whether in connection with a business or not, which encompasses a place where more than two inoperable motor vehicles or used parts and materials thereof, when taken together, equal the bulk of two motor vehicles, are stored or deposited.

#### **124.02 PERMIT REQUIRED.**

1. Every person who carries on the business of junk dealer in the City shall first obtain a permit as herein required.
2. Application for a junk dealer’s permit shall be made to the Council at least twenty (20) days prior to the issuance of such permit. The application shall include:
  - A. The name and permanent address of the owner;
  - B. The name and address of the operator if different from the owner;
  - C. The location of the proposed site for a junk yard or junk shop;
  - D. A sketch showing the specific area that will be covered by the permit;
  - E. A list of the names and addresses of all adjacent property owners; and
  - F. Proof that a zoning permit has been obtained for use of the proposed site as a junk yard or junk shop.

3. Any person wishing to expand a junk yard or junk shop beyond the specific area approved for a permit shall obtain a new permit and any person conducting several or separate places of business as a junk dealer shall pay the permit fee and procure a permit for each such place.
4. The fee for application for a junk dealer's permit is \$150.00 and is nonrefundable.

**124.03 NOTIFICATION OF APPLICATION.** The Council shall send written notification to all adjacent landowners of the proposed site of the junk yard or junk shop that an application for junk dealer's permit has been received for that location. The Council shall also publish notice in the City newspapers stating that an application for junk dealer's permit has been received, the location of the proposed site and when the application will be acted on. The Council shall consider all information and comments received concerning the application, but all final determinations shall rest with the Council.

**124.04 PERMIT NONTRANSFERABLE.** If control of a junk yard is acquired by any owner or operator other than the person holding a permit for the junk yard or junk shop, that person shall, within 15 days, apply for a new permit in the name of the new owner or operator.

**124.05 REVOCATION OF PERMIT.** After giving a permit holder 30 days' notice and the opportunity for a hearing, the Council may revoke any permit issued under this chapter if the permit holder fails to comply with the provisions of this chapter or has otherwise conducted the business in an unlawful manner or if the permit holder has presented any false information to the City.

**124.06 RIGHT OF ENTRY.** As a condition of issuance of every permit, the Police Chief shall have the right of entry to, upon or through any junk yard or junk shop for the purpose of enforcing the provisions of this chapter.

**124.07 REQUIREMENTS FOR JUNK YARDS.** A junk yard, as defined in this chapter, must be surrounded with a solid, opaque fence of uniform design and color and not less than eight (8) feet high, which substantially screens the area in which junk is stored or deposited. The fence must be kept in good repair and shall not be used for advertising displays or signs. Suitable gates, likewise opaque, are required, and such gates shall be closed and locked after business hours or when the junk yard is unattended. A portion of any gate, not to exceed 10 feet in length, may be constructed of a non-opaque material to permit observation of the fenced premises after business hours. No junk shall be permitted to be stored or deposited outside of the fence, nor shall junk be stacked higher than the fence within 30 feet of the fence, nor shall junk be stored in any flood hazard area. If a portion of the perimeter of the junk yard is not in any way subjected to public view, the Council may allow a buffer planting screen of coniferous trees in lieu of the solid opaque fence as required above.

**124.08 OTHER REQUIREMENTS.**

1. Segregation of Specific Items. Upon order of the Police Chief, each junk dealer shall segregate specific items or categories of items and hold such items until authorized to dispose of the items by the Police Department. The holding period shall be a reasonable time and shall not exceed 45 days.
2. Concealing Articles to Prevent Identification. No junk dealer shall conceal, secrete or destroy any article purchased or received by the junk dealer to prevent

identification of such article or of any person claiming the same by law enforcement officers.

3. Disposing of Stolen Goods or Good for Which There Is Adverse Claim. No junk dealers shall sell, melt, break up or otherwise dispose of any article that the dealer has reason to believe has been stolen or which is adversely claimed by any person or which the dealer has been notified not to sell or otherwise dispose of by any law enforcement officer without first obtaining a permit in writing from the Police Chief.

4. Clerks, Agents and Employees. Every clerk, agent, or employee of any junk dealer shall be subject to and bound by all the provisions of this chapter and liable to the same penalties and to the same extent as the employer or principal for any violation thereof.

5. Conditions Subject to Abatement. If any junk yard or junk shop is kept or operated in a way detrimental to the health and welfare of the public to the extent that a public or private nuisance exists, or is kept or operated contrary to the provisions of this chapter, the Council, in addition to other remedies, may find that the condition constitutes a nuisance and have it abated as provided in Chapter 50 of this Code of Ordinances.

[The next page is 685]

## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 321.369)*

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

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

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

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

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

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

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation. No fee shall be required for such permit.
12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of one thousand dollars (\$1,000.00) to guarantee such compliance.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs, and picking up litter.  
(*Code of Iowa, Sec. 364.12[2c]*)

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.  
(*Code of Iowa, Sec. 364.12[2e]*)

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.  
(*Code of Iowa, Sec. 364.12[2]*)

**135.13 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City

shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

[The next page is 693]



## CHAPTER 136

# SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

**136.01 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. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:
  - A. Vertical separations equal to three-fourths ( $\frac{3}{4}$ ) inch or more.
  - B. Horizontal separations equal to one (1) inch or more.
  - C. Holes or depressions equal to three-fourths ( $\frac{3}{4}$ ) inch or more and at least four (4) inches in diameter.
  - D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half ( $\frac{1}{2}$ ) inch or more.
  - E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths ( $\frac{3}{4}$ ) inch or more.
  - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - G. A sidewalk with any part thereof missing to the full depth.
  - H. A change from the design or construction grade equal to or greater than three-fourths ( $\frac{3}{4}$ ) inch per foot.
3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. “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.
6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “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.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

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

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

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

*(Code of Iowa, Sec. 384.38)*

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

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

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
  - B. All sidewalks throughout the Business District shall be constructed from lot line to the curb line unless the location of the sidewalk is varied by an appropriate resolution of the Council upon application by the landowner.
  - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ( $\frac{1}{2}$ ) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ( $\frac{1}{4}$ ) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

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

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or

lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

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

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

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

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

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

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

**136.15 FIRES OR FUEL ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

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

*(Code of Iowa, Sec. 716.1)*

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

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

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

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## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

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

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

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

*(Code of Iowa, Sec. 392.1)*

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

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

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

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

*(Code of Iowa, Sec. 364.7)*

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

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

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**CHAPTER 138**  
**STREET GRADES**

**138.01 Established Grades**

**138.02 Record Maintained**

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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

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## CHAPTER 139

# NAMING OF STREETS

**139.01 Naming New Streets**  
**139.02 Changing Name of Street**  
**139.03 Recording Street Names**

**139.04 Official Street Name Map**  
**139.05 Revision of Street Name Map**

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Sumner, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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## CHAPTER 140

# CONTROLLED ACCESS FACILITIES

**140.01** Exercise of Police Power  
**140.02** Definition  
**140.03** Right of Access Limited

**140.04** Access Controls Imposed  
**140.05** Alteration or Construction Prohibited  
**140.06** Unlawful Use of Controlled Access Facility

**140.01 EXERCISE OF POLICE POWER.** This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.  
(*Code of Iowa, Sec. 306A.1*)

**140.02 DEFINITION.** The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.  
(*Code of Iowa, Sec. 306A.2*)

**140.03 RIGHT OF ACCESS LIMITED.** No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.  
(*Code of Iowa, Sec. 306A.4*)

**140.04 ACCESS CONTROLS IMPOSED.** Controlled access facilities are fixed and established within the City, regulating access to and from abutting properties along a portion of First Street within the City.<sup>†</sup>

**140.05 ALTERATION OR CONSTRUCTION PROHIBITED.** It is unlawful for any person, directly or indirectly, to change, alter, relocate, reconstruct, or change any driveway or entrance established in this chapter, or to construct, open, or maintain any other driveway or entrance to controlled access facilities without first obtaining the written consent of the Highway Commission of the State and a permit from the City.

**140.06 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY.** It is unlawful for any person to:  
(*Code of Iowa, Sec. 306A.3 and 321.366*)

1. Cross Dividing Line. Drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section, or line.

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<sup>†</sup> **EDITOR’S NOTE:** A list of controlled access facilities is on file with the City Clerk.

4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line that separates such service road from the controlled access facility property.

[The next page is 725]

## CHAPTER 145

### DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish; Municipal Infraction  
145.08 Costs

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

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

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

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

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

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

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

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SUMNER, 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

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<sup>†</sup> **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.



of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.03 Foundation Requirements

### 146.02 Conversion to Real Property

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

*(Code of Iowa, Sec. 435.1)*

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

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on 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)*

[The next page is 735]

## CHAPTER 147

# BUILDING PERMITS

**147.01 Building Permit Required**  
**147.02 Permit Application**

**147.03 Building Permit Fees**

**147.01 BUILDING PERMIT REQUIRED.** No building or other structure shall be erected within the City without first receiving a building permit therefor.

**147.02 PERMIT APPLICATION.** An application for a building permit shall be obtained from the City Clerk. All applications for building permits will be presented to the Building Permit Review Committee, which shall consist of the Chairperson of the Planning and Zoning Commission, a member of the Planning and Zoning Commission appointed by the Chairperson of the Commission, the Zoning Administrator, and the City Clerk. If there are applications to review, the Building Permit Review Committee shall meet at City Hall. The Committee will meet no more than three times per month to review applications and recommend or deny the issuance of a building permit by the Zoning Administrator. The application process and issuance of a building permit is required before any work is commenced on a building or structure.

**147.03 BUILDING PERMIT FEES.** The fee for a building permit shall be calculated according to the following schedules and shall be paid before the issuance of a permit.

1. Valuation Schedule.

Residential Zoning District	
Single Family Dwellings	
New Home	\$135.00 per square foot*
Additions	\$75.00 per square foot
Decks and Porches	\$12.00 per square foot
*If a two story dwelling add the square footage of both levels.	
Multi-family Dwellings	
New Apartment	\$75.00 per square foot
Additions	\$75.00 per square foot
Garage	
On Foundation	\$18.00 per square foot
Floating Slab	\$14.00 per square foot
Other Permitted Structures	Estimated cost of construction
Commercial Zoning District	
Office Building	\$75.00 per square foot
Medical Office	\$75.00 per square foot
Permitted Retail Commercial Structures	\$75.00 per square foot
Canopies	\$16.00 per square foot
Other Permitted Structures	Estimated cost of construction

<b>Industrial Zoning District</b>	
Concrete and Steel Frame	\$35.00 per square foot
The valuation of any building over 10,000 square feet shall be determined by the estimated cost of construction rather than by valuation by square footage.	
<b>Multi-District Classification</b>	
Conventionally Framed Buildings	
Insulated	\$17.50 per square foot
Non-insulated	\$14.50 per square foot
Pole Framed Buildings	
Without concrete floor	\$8.00 per square foot
With concrete floor	\$12.00 per square foot
With concrete floor and capable of being heated	\$15.00 per square foot

## 2. Permit Fee Schedule.

Carport	\$15.00 flat permit fee
Storage Shed (metal & wood)	\$20.00 flat permit fee
Sign Permit	\$20.00 flat permit fee
<b>Valuation</b>	<b>Permit Fee</b>
(Valuation = square footage times the cost per square foot)	
\$0.00 - \$5,000.00	\$25.00
\$5,001.00 - \$10,000.00	\$30.00
\$10,001.00 - \$15,000.00	\$35.00
\$15,001.00 - \$20,000.00	\$40.00
\$20,001.00 - \$25,000.00	\$45.00
\$25,001.00 - Over	\$50.00 plus \$2.00 per thousand of valuation

[The next page is 751]

## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Plan

**150.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

*(Code of Iowa, Sec. 364.12[3d])*

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three and one-half (3½) inches in height and of a contrasting color with their background.

*(Code of Iowa, Sec. 364.12[3d])*

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[3h])*

**150.03 BUILDING NUMBERING PLAN.** Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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## CHAPTER 151

### TREES

#### 151.01 Definition

#### 151.02 Planting Restrictions

#### 151.03 Duty to Trim Trees

#### 151.04 Trimming Trees to Be Supervised

#### 151.05 Disease Control

#### 151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

*(Code of Iowa, Sec. 364.12[3b & h])*

[The next page is 775]

## CHAPTER 160

# FLOOD PLAIN MANAGEMENT

160.01 Statutory Authority, Findings of Fact and Purpose	160.13 Flood Plain Development Permit Required
160.02 Definitions	160.14 Application for Permit
160.03 Lands to Which Chapter Applies	160.15 Action on Permit Application
160.04 Compliance	160.16 Construction and Use to Be as Provided in Application and Plans
160.05 Abrogation and Greater Restrictions	160.17 Variances
160.06 Interpretation	160.18 Factors Upon Which the Decision to Grant Variances Shall Be Based
160.07 Warning and Disclaimer of Liability	160.19 Conditions Attached to Variances
160.08 Severability	160.20 Nonconforming Uses
160.09 General Flood Plain Standards	160.21 Amendments
160.10 Special Floodway Standards	160.22 Penalties for Violation
160.11 Special Provisions for Shallow Flooding Areas	
160.12 Administration	

### 160.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function that said cities deem appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City of Sumner are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City of Sumner 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 Section 160.01(2)(A) of this chapter with provisions designed to:

A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

C. Protect individuals from buying lands that may not be suited for intended purposes because of flood hazard.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. (See "100-year flood.")
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. "Development" means any manmade change to improved or unimproved real estate, including (but not limited to) buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. "Existing construction" means any structure for which the start of construction commenced before the effective date of the first flood plain management regulations adopted by the community, and may also be referred to as "existing structure."
5. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first flood plain management regulations adopted by the community.
6. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. "Factory-built home" means any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes and modular homes and also include recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. "Flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood

elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing and flood plain management regulations.

14. “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.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A) of this chapter; and

- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and
- D. The enclosed area is not a basement, as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "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.

20. "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 first flood plain management regulations adopted by the community.

21. "100-year flood" means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.

22. "Recreational vehicle" means a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. "Special flood hazard area" means the land within a community subject to the 100-year flood. This land is identified as Zone A, AE, A1-A30, AO and AH on the community's Flood Insurance Rate Map.

24. "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.

25. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

26. "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.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition that increases the original floor area of a building by 25 percent or more. All additions constructed after on or after the first flood plain 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.

28. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

29. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

**160.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM), Panels 226, 227, 228 and 229, dated March 4, 2008, which were prepared as part of the Bremer County and Incorporated Areas, City of Sumner Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The City of Sumner Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering flood plain management regulations.

**160.04 COMPLIANCE.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms

of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

**160.05 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

**160.06 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**160.07 WARNING AND DISCLAIMER OF LIABILITY.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Sumner or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**160.08 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.

**160.09 GENERAL FLOOD PLAIN STANDARDS.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the 100-year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development. All development within the special flood hazard areas shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to



favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, 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 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the lowest floor (not including basements) which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-Built Homes:

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation

such that the lowest floor of the structure is a minimum of one foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of Flammable 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 100-year flood level. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to floodwaters; or (ii) readily removable from the area within the time available after flood warning.

8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivision. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include

100-year flood elevation data for those areas located within the area of significant flood hazard.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

**160.10 SPECIAL FLOODWAY STANDARDS.** In addition to the general flood plain standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to

provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
2. All uses within the floodway shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general flood plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

**160.11 SPECIAL PROVISIONS FOR SHALLOW FLOODING AREAS.** In addition to the general flood plain standards, uses within shallow flooding areas must meet the following applicable standards.

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum flood proofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of two feet if no number is specified) above the highest natural grade adjacent to the structure.

2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum flood proofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

**160.12 ADMINISTRATION.** The City Clerk is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties 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 floodplain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood proofed.
5. 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.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

**160.13 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED.** A flood plain development permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

**160.14 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 (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use or occupancy for which the proposed work is intended.
4. Elevation of the 100-year flood.
5. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

**160.15 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 City Council.

**160.16 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.

**160.17 VARIANCES.** The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

1. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
3. 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. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

**160.18 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a floodplain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

**160.19 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
5. Flood proofing measures.

**160.20 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 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.

**160.21 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.

**160.22 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 five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained shall prevent the City of Sumner from taking such other lawful action as is necessary to prevent or remedy violation.

[The next page is 801]



## CHAPTER 165

# ZONING REGULATIONS

165.01 Zoning Affects Every Structure	165.10 Agricultural (A-1) District Requirements
165.02 Definitions	165.11 Residential (R-1) District Requirements
165.03 General Provisions	165.12 Residential (R-2) District Requirements
165.04 Special Provisions	165.13 Residential (R-4) District Requirements
165.05 Placement of Communication Towers and Antennas on City-Owned or Controlled Real Estate	165.14 Highway Commercial (C-1) District Requirements
165.06 Establishment of Zoning Districts	165.15 Highway Commercial (C-2) District Requirements
165.07 Changes in Official Zoning Map	165.16 Commercial/Industrial (C-3) District Requirements
165.08 Rules for Interpretation of District Boundaries	165.17 Light Industrial (M-1) District Requirements
165.09 Annexed Territory	165.18 Heavy Industrial (M-2) District Requirements
	165.19 Board of Adjustment
	165.20 Application Forms

**165.01 ZONING AFFECTS EVERY STRUCTURE.** Except as hereinafter provided, no building, structure, or land shall be erected, constructed, reconstructed, occupied, moved, altered, or repaired, except in conformity with the regulations herein specified for the class of district in which it is located.

**165.02 DEFINITIONS.** For the purpose of this chapter, certain terms and words are herein defined.

1. "Accessory use of building" means a use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land. This definition includes those buildings built upon a foundation or upon skids or without a foundation in excess of 64 square feet.
2. "Alley" means a public thoroughfare of 16½ feet which affords only a secondary means of access to abutting property.
3. "Alterations, structural" means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.
4. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.
5. "Apartment house" means a building arranged, intended, or designed to be occupied by three or more families living independently of each other.
6. "Auditor" means the County Auditor of the County in which the city or subdivision is a part.
7. "Auto laundry" means a building, or portion thereof, containing facilities for washing more than two automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by a customer.
8. "Automobile service station" means any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any vehicular fuels, oils, or

accessories and in connection with which is performed general vehicular servicing as distinguished from automotive repairs.

9. “Basement” means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulation.

10. “Bed and breakfast enterprise” is synonymous with boarding house or guest lodging and means any building or portion thereof.

11. “Boarding house” means a building (other than a hotel) where, for compensation and by arrangement, meals or lodging and meals are provided for three or more persons.

12. “Building” means any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattel, or property of any kind.

13. “Building, height of” means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hop, and gambrel roofs.

14. “Building line” means a line established on a plat as a restrictive covenant, beyond which no building may be placed. The building line need not correspond to the front, side or rear yard requirement established in the zoning ordinance, and where they do not, the most restrictive requirement will control.

15. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides. For the purpose of this chapter, a carport attached to a principal building shall be considered a part of the principal building and subject to all yard requirements therein.

16. “Cellar” means a story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

17. “Child care center” means any place, home, or institution which receives three or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation.

18. “Clinic” means a building or buildings used by physicians, dentists, veterinarians, osteopaths, chiropractors, and allied professions for out-patient care of persons requiring such professional service.

19. “Collector street” means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.

20. “Commission” means the Planning and Zoning Commission of Sumner, Iowa.

21. “Consignment and auction sales operations” means a business that, on an on-going basis, stores and sells personal property to the public, indoors.

22. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

23. “Drive-in restaurant” or “refreshment stand” means any place or premises principally used for the sale, dispensing, or serving of food, refreshment, or beverages, in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on or off the premises.

24. "Driveway" means a private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.
25. "Dwelling" means any building or portion thereof which is designed for or occupied exclusively for residential purposes; does not include a tent, cabin, trailer, or mobile home.
26. "Dwelling, condominium" means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership and the real estate on which the units are located is held in common ownership solely by the owner of the units with each owner having an undivided interest in the common real estate.
27. "Dwelling, detached" means a dwelling that is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall, or floor in common with any other dwelling unit.
28. "Dwelling, multiple" means a building designed for or occupied exclusively by three or more families.
29. "Dwelling, row" means any one of three or more attached dwellings in a continuous row, each dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls, and is also referred to as a "townhouse."
30. "Dwelling, single-family" means a building designed for or occupied by one family.
31. "Dwelling, two-family" means a building designed for or occupied exclusively by two families.
32. "Easement" means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, another person, or entity.
33. "Economic base" means the production, distribution, and consumption of goods and services within a planning area.
34. "Egress" means an exit.
35. "Eminent Domain" means the authority of a government to take, or to authorize the taking of, private property for public use for just compensation.
36. "Environmental impact statement" means a statement on the effect of development proposals and other major activities that significantly affect the environment.
37. "Essential services" means the erection, alteration, or maintenance by public utilities, 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 for the public health, safety, or general welfare, but not including buildings.
38. "Family" means one or more persons occupying premises and living as a single housekeeping unit, whether or not related to each other by birth, marriage, or

adoption, as distinguished from a group occupying a boarding house or hotel as herein defined.

39. “Family home” means a community-based residential home that 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. A family home does not mean an individual foster care family as licensed under Chapter 237 of the *Code of Iowa*.

40. “Farm” means an area that is used for the growing of the usual farm products, such as vegetables, fruits, and grains, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operations of any such accessory uses shall be secondary to the normal farming activities and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.

41. “Farm animal” means the production, keeping, or maintenance for sale, lease or personal use of animals useful to humans, including (but not limited to) dairy animals, poultry, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees, fish, and fur animals but not including rabbits kept as pets.

42. “Feasibility study” means an analysis of a specific project or program to determine if it can be successfully carried out.

43. “Feedlot” means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs, sheep or poultry. The term does not include areas that are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

44. “Fence, nonresidential” means a barrier and/or structure erected in a district other than an R District and intended to provide security, mark a boundary or a means of landscaping with the centerline of said barrier, to be located inside the designated property line, provided no such fence is constructed of salvaged material or uses barbed wire closer than six feet to the ground except a fence used purely for agricultural purposes.

45. “Fence, residential” means a barrier and/or structure erected in an R District intended to provide security, mark a boundary, or as a means of landscaping with the centerline of said barrier to be located inside the designated property line. Such fence shall be constructed of materials commonly used for landscape fencing, such as masonry block, lumber, chain link, but shall not include corrugated sheet metal, barbed wire, or salvage material.

46. “Final plat” means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.

47. "Flat lot" means a lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

48. "Foundation, permanent" means the base of a structure that is in contact with the ground. The following are permitted types of permanent foundations:

A. Frost Foundation. Frost foundation is to have a footing that is a minimum of 16 inches wide and 8 inches deep, with two ½-inch re-rod. Its starting point shall be a minimum of 42 inches from the finish grade of the structure. The ascending wall shall be a minimum of 8 inches thick with concrete that will have a strength level of a minimum of 3,000 p.s.i. (Refer to Drawing No. 1.)

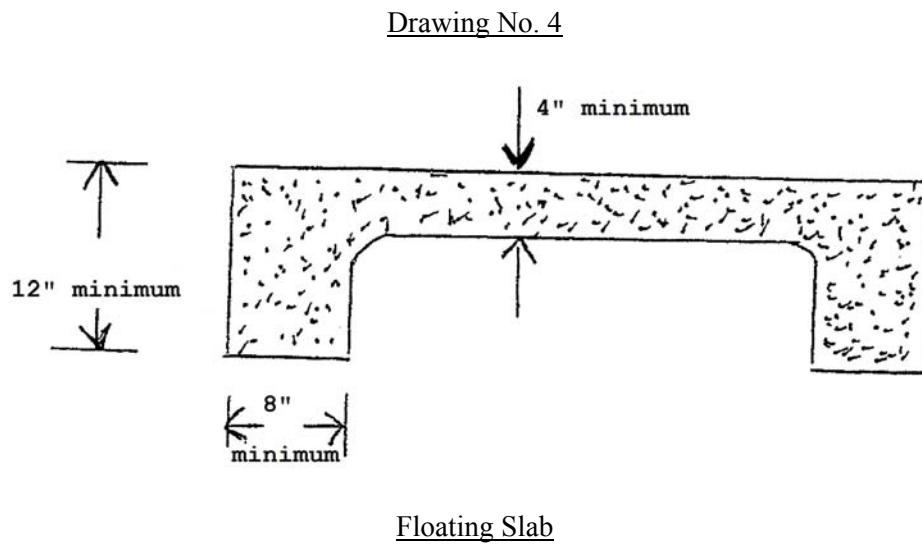
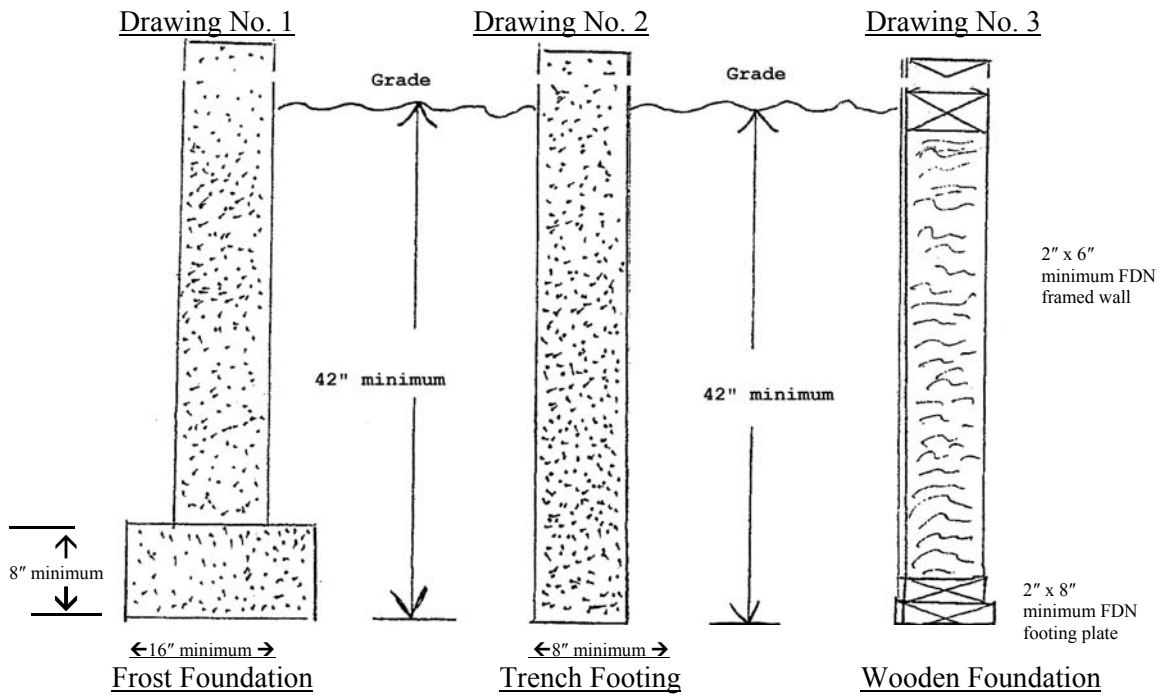
B. Floating Slab. A floating slab shall have a thickened edge (minimum of 8 x 8 inches) with one ½-inch re-rod placed continuously around the perimeter of the foundation. The floor slab and edge shall be made in one continuous pour using a minimum of 3,500 p.s.i. concrete. (Refer to Drawing No. 4.)

C. Trench Footing. A trench footing shall be a minimum of 8 inches in width and extend a minimum of 42 inches from the finish grade of the structure. There shall be one ½-inch re-rod placed continuously around the perimeter of the foundation. A minimum of 3,000 p.s.i. concrete shall be used. (Refer to Drawing No. 2.)

D. Wooden Foundation. A wooden foundation shall consist of a minimum of 2 x 6-inch timbers placed on 16-inch center with a minimum of a 2 x 8-inch footing plate that is a minimum of 42 inches from the finish grade of the structure. (Refer to Drawing No. 3). The footing plate shall rest on either:

(1) Concrete footing that is a minimum of 16 inches wide by 8 inches deep with two ½-inch re-rod.

(2) Washed concrete rock footing of a minimum of 24 inches wide by 12 inches deep.

**FOUNDATION REFERENCE DRAWINGS**

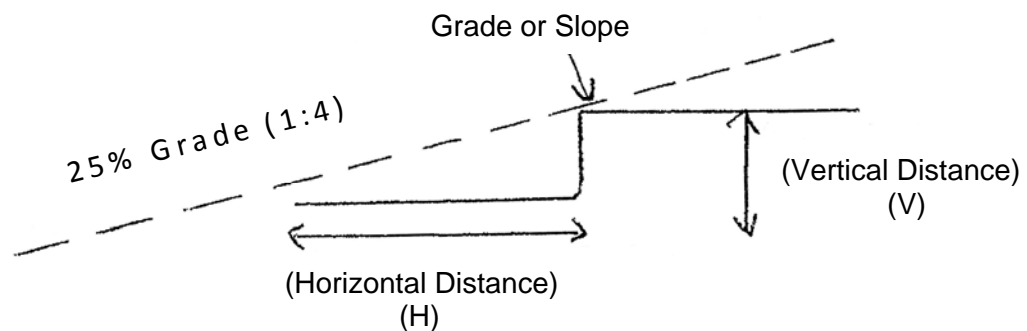
49. “Frontage” means all the property on one side of the street between intersecting streets crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

50. “Garage, private” means an accessory building designed or used for the storage of not more than three motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle.

51. “Garage, public” means a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

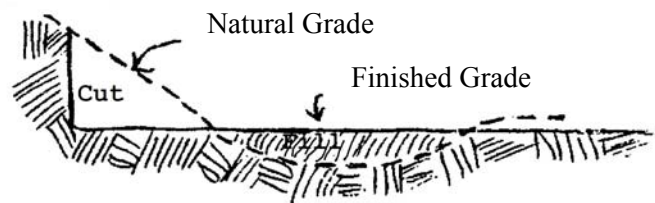
52. “Garage, storage” means a building or portion thereof designed or used exclusively for term storage, by prearrangement, of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

53. “Grade” means the degree of rise or descent of a sloping surface. (See drawing below.)



$$\text{Slope Calculation} = \frac{V}{H}$$

54. “Grade, finished” means the final evaluation of the ground surface after development. (See drawing below.)



**Cut and Fill Cross Section**

55. “Grade, natural” means the evaluation of the ground surface in its natural state before manmade alterations.

56. “Group care facility” means a facility that provides resident services to seven (7) or more individuals, of whom one or more are unrelated. These individuals are handicapped, aged, or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes any licensed or supervised Federal, State, or County health/welfare agencies, such as group homes (all ages), half-way houses, resident schools, resident facilities, and foster or boarding homes.

57. “Hazardous material” means any substance or mixture of substances that present a danger to the public health or safety and includes (but is not limited to) a substance that is toxic, corrosive or flammable, or which is an irritant or generates pressure through decomposition, heat, or other means.

58. “Hazardous material cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance. The individual party or corporation directly responsible for the initial spillage of the hazardous material is responsible for the hazardous substance cleanup.

59. “Historic preservation” means the protection, rehabilitation, and restoration of districts, sites, buildings, structures, and artifacts significant in American history, architecture, archaeology, or culture.

60. “Home occupation” means an occupation or profession which:

A. Is customarily carried on in a dwelling unit, provided that such occupation or profession is actually carried on in the dwelling unit and not in any building or structure accessory to the dwelling unit; and

B. Is carried on by the owner of the dwelling unit who resides in the dwelling unit; and

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and

D. Does not employ more than one person outside the immediate family occupying the dwelling unit; and

E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building; and

F. Does not occupy more than 50 percent of the dwelling area or more than 50 percent of the area of one floor of the dwelling unit; and

G. Has no more than one non-illuminated exterior sign mounted flush with the face of the building, which sign shall not exceed two square feet in area; and

H. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare, rendering such building or premises objectionable or detrimental to the residential character of the neighborhood; and

I. Has obtained a home occupation permit to be issued by the Commission, only after an investigation is conducted by the Zoning Administrator. The home occupation permit will be reviewed on the six-month anniversary of its issuance date by the Zoning Administrator to



ascertain whether the business is in compliance with these home occupation requirements. Any denial of a home occupation permit is appealable to the Board of Adjustment; and

J. Will be reviewed annually by the Zoning Administrator to determine whether the business is in compliance with these home occupation requirements.

K. May be required to be terminated by the City if at any time violations or variations from these home occupation requirements are found. Any home occupation permits may be rescinded upon a determination by the Zoning Administrator that a violation of these home occupation requirements exists.

L. May not be transferred, leased, or assigned, unless a new permit is applied for and granted.

61. “Household” means a family living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

62. “Ingress” means access or entry.

63. “Institution” means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

64. “Junkyard” means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, stored, abandoned, or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards or places or yards for storage of salvage house wrecking and structural steel materials and equipment, but not including areas where uses are conducted entirely within a completely enclosed building.

65. “Kennel, dog” (commercial) means any parcel of land on which three (3) or more dogs, six (6) months old or older are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.

66. “Kennel, dog” (private) means any parcel of land on which three (3) or more dogs are kept; however, this does not include breeding, grooming, boarding, or other activities associated with the care of dogs other than the owner’s dogs.

67. “Laundromat” means an establishment providing washing, drying and/or dry cleaning machines on the premises for rental use to the general public for family laundering and/or dry cleaning purposes.

68. “Loading space” means an off-street space or berth used for the loading or unloading of vehicles.

69. “Lot,” for the purposes of this chapter, means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or private street and may consist of:

A. A single lot of record;

B. A portion of a lot of record;

- C. A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and
  - D. 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 chapter.
70. "Lot area" means the total area within the lot lines of a lot, excluding any street rights-of-way.
71. "Lot, corner" means a lot abutting upon two or more streets at their intersection.
72. "Lot, depth" means the mean horizontal distance between front and rear lot lines.
73. "Lot, double frontage" means a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
74. "Lot frontage" means the length of the front line measured at the street right-of-way line.
75. "Lot, interior" means a lot other than a corner lot.
76. "Lot line" means a line of record bounding a lot and which divides one lot from another lot or from a public or private street or any other public space.
77. "Lot line, rear" means the lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
78. "Lot line, side" means any lot line other than a front or rear lot line.
79. "Lot, minimum area of" means the smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.
80. "Lot of record" means a lot that is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of the County in which it is located.
81. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.
82. "Massage establishment" means any place of business wherein massage (as the practice of a profession, scientifically applied to the patient by a massage therapist's hands) is administered or used.
83. "Manufactured home" means a factory-built, single-family structure, manufactured or constructed under the authority of 42 U.S.C. Section 5403, to be located and installed according to the same standards, including (but not limited to) a foundation system, set-back, and minimum width applicable to a site-built, single-family dwelling on the same lot, and which is to be used as a place for human habitation but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it from its place of manufacture to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For

the purpose of these regulations, manufactured homes shall be subject to the same standards as site-built dwellings.

84. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as conveyance upon the public streets and highways and so designed or constructed as will permit the vehicle to be used as a place for human habitation by one or more persons. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, unless and until the mobile home is attached to a permanent foundation, and the vehicle frame is modified or destroyed, rendering it impossible to reconvert the real property thus created to a mobile home, and all wheels, axles, hitch or other appurtenances of mobility are permanently removed. A mobile home may only be construed to be a manufactured home if it meets all of the guidelines set forth in subsection 83 of this section. No commercial business shall be carried on in a mobile home or trailer constructed as a mobile home except when used as a temporary office, upon obtaining a permit from the administrative officer, for a period of 180 days.

85. “Mobile home park” means any site, lot, field, or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

86. “Motor court” or “motel” means a building or group of buildings used primarily for the temporary residence of motorists or travelers with parking facilities conveniently located to each unit, and may include accessory facilities such as swimming pool, restaurant, meeting rooms, etc.

87. “Nonconforming use” means a use or activity that was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision, or amendment, to conform to the present requirements of the zoning district.

88. “Nursing home” means a home for the aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept and provided with food, or shelter and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.

89. “Overhang” means the part of a roof or wall which extends beyond the façade of a lower wall. The overhang is part of the building for size requirements.

90. “Planned unit development” means an area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial, or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.

91. “Parking space” means a surfaced area, enclosed in the main building or unenclosed, having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway that affords satisfactory ingress for automobiles.

92. "Place" means an open, unoccupied space or public or private thoroughfare other than a street or alley permanently reserved as the principal means of access or abutting properly.
93. "Preliminary plat" means a study or drawing indicating the proposed manner or layout of the subdivision and which is submitted to the Council and Commission for consideration.
94. "Recreational vehicle" means a vehicle that is: (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towed by a light-duty truck; and (iv) designed primarily not for use as permanent dwelling but as a temporary living quarters for recreational, camping, and travel use and including (but not limited to) travel trailers, truck campers, camping trailers, and self-propelled motor homes. A recreational vehicle shall only be used as living quarters for a maximum of two weeks. Using a recreational vehicle for living quarters beyond two weeks shall require approval of the Planning and Zoning Chairman and Zoning Administrator.
95. "Right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting property.
96. "Satellite dish antenna" means a satellite receiver, a satellite ground dish antenna, or a satellite rooftop antenna, which may or may not be able to rotate to enable the "dish" to aim at different satellites for the purpose of television reception.
97. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of the zoning ordinance.
98. "Sidewalk" means a paved or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.
99. "Sign" means any structure or part thereof or device attached thereto or painted, or represented thereon, which displays or includes any letter, work, model, banner, flag, pennant, insignias, device or presentation used as, or which is in the nature of an announcement, direction, or advertisement. "Sign" includes "billboard" but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any nation, state, city or other political unit, or of any political, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.
100. "Site plan" means a plan (to scale) showing uses and structures proposed for a parcel of land as required by the regulations involved.
101. "Story" means that portion of a building, other than a cellar, 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 ceiling next above it.
102. "Storage shed" means an accessory building of not more than 144 square feet.
103. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four feet above the top floor level.
104. "Street" is a general term used to describe a public right-of-way that provides a channel for vehicular and pedestrian movement, and may provide for vehicular and

pedestrian access to properties adjacent to it, and which may also provide space for the location of utilities (both above and below ground).

- A. Thoroughfare. A thoroughfare is a street intended for cross-country or through traffic.
- B. Collector Street. A collector street is intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.
- C. Residential Street. A residential street is used primarily for access to abutting property.
- D. Minor Residential Street. A minor residential street is a cul-de-sac or loop street designed to serve not more than 20 dwellings.

105. "Structure" means anything constructed, erected, or built, the use of which requires more or less permanent location on the ground, including (but without limiting the foregoing) advertising signs, billboards, backstops for tennis courts and pergolas.

106. "Subdivider" means any person, firm, corporation, partnership, or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof, as defined herein.

107. "Subdivision" means the division of a separate tract of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land.

108. "Swimming pool" means a tank of water either above or below grade level in which the depth of water exceeds 12 inches. Swimming pools, hot tubs, whirlpool baths and tubs, Jacuzzi-type tubs or baths, and ponds are considered swimming pools if they are located outdoors.

109. "Travel trailer" or "camping trailer" means a 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 to permit the vehicles to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight feet in width and any length provided its gross weight does not exceed 4,500 pounds, which shall be the manufacturer's shipping or the actual weight, provided its over-all length does not exceed 23 feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes; if used as a place of human habitation for more than 90 days in any 12-month period, it shall be classed as a mobile home, regardless of the size and weight limitation provided herein. This definition also includes house cars and camp cars having motive power and designed for temporary occupancy as defined herein.

110. "Trailer camp" or "tourist camp" means an area providing spaces for two or more recreational vehicles, or tent sites for temporary occupancy, with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

111. "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from 30 inches above the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.

112. “Yard, front” means a yard extended across the full width of the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projection of the usual uncovered steps, uncovered balconies or uncovered porch. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where owner shall elect to front his building on the street parallel to the lot line having the greater dimension.

113. “Yard, rear” means a yard extended across the full width of the rear lot and being the required minimum horizontal distance between a side lot line and the side of the main building or any projection thereto.

114. “Yard, side” means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

115. “Variance” means a departure from the standards of this chapter. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations, not created by the owner or developer, the Board of Adjustment may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

[The next page is 821]

**165.03 GENERAL PROVISIONS.**

1. Minimum Street Frontage. No lot shall be created after the adoption of the zoning ordinance unless it abuts at least 30 feet on a public street.
2. Lot of Record. In any residential district on a lot of record at the time of enactment of the zoning ordinance, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of this chapter are complied with. However, where two or more vacant and contiguous substandard recorded lots are held in common ownership, they shall be combined into zoning lots and shall thereafter be maintained in common ownership and shall be so joined and developed for the purpose of forming an effective and conforming zoning lot. For the purpose of this section, the razing of a building on a substandard lot shall constitute the formation of a vacant lot.
3. Lots Unserved by Sewer and/or Water. In any residential district where neither public water supply nor public sanitary sewer are reasonably available, one single dwelling may be constructed, provided the otherwise specified lot area and width requirements shall be a minimum of three (3) acres.
4. Accessory Building, Structure, and Uses.
  - A. Time of Construction. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.
  - B. Height of Accessory Buildings. No detached accessory building or structure shall exceed 18 feet in height, and the side walls shall not exceed 10 feet in height.
  - C. Location on Lot. No accessory building or structure shall be erected in any front yard. Accessory building or structure shall be no closer than five feet from any main buildings.
5. More Than One Principal Structure on Lot. In any district more than one principal structure, housing a permitted principal use, may be erected on a single lot provided that the area, yard, and other requirements are met for each structure as though it were on an individual lot.
6. Required Yard Cannot Be Reduced or Used by Another Building. No lot, yard, court, parking area, or other open space shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this chapter, and if already less than the minimum required, it shall not be reduced further. No required open space provided around any building or structure shall be included as part of any open space required for another building or structure.
7. Conversion of Dwellings. The conversion of any building or structure into a dwelling (or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families) shall be permitted only within a district in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter within the section applying to such district.

8. Yard and Parking Space Restriction. 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 chapter shall be included as part of a yard, open space, off-street parking, or loading space similarly required for any another building.

9. Zoning. Any property proposed for subdivision shall be correctly zoned to accommodate the proposed uses before the subdivision process is begun.

10. Visibility at Intersections. On a corner lot in any district except the C-2, General Retail District, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two feet and ten feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by connecting the right-of-way lines at points that are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.

11. Essential Services. Essential services shall be permitted as authorized and regulated by law and other ordinances of the community, it being the intention hereof to exempt such essential services from the application of this chapter.

12. Validity of Existing Building Permits. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated uses of any development, building, structure, or part thereof, for which the official approvals and required building permits have been granted before the enactment of the zoning ordinance, the construction of which, conforming with such plans, shall have been started prior to the effective date of the zoning ordinance and the completion thereof carried on in a normal manner within the subsequent one-year period, and not discontinued until completion, except for reasons beyond the builder's control.

13. Public Right-of-Way Use. No portion of the public street or alley right-of-way shall be used or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

14. Fences.

A. Fences in an R (Residential) District. Residential fences or landscape features such as sculpture or walls may be erected or constructed with the centerline of said barrier to be located within the property with no portion of fence extending on to adjacent property or right-of-way; provided, no such fence in any front, side, or rear yard having street frontage exceeds six feet in height, or ten feet in height in the case of side and rear yards not having street frontage.

B. Fences in Districts Other Than an R District. Nonresidential fences located in a district other than an R District must be located with the centerline of said fence at least six inches from the property line and cannot exceed ten feet in height.

15. Proposed Use Not Covered by Chapter. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper district in which such use should be permitted, and this chapter amended, before a permit is issued for such proposed use.



16. Access Required. Every building hereinafter erected or structurally altered shall be on a lot having frontage on a public street.

17. Application of Regulations. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

18. Requirements in Special Flood Hazard Areas. These requirements are covered by Chapter 160 of this Code of Ordinances.

19. Permitted Uses. Use is permitted in all zoning districts for the purposes of the distribution of public utilities. However, design and placement of said equipment and devices shall be reviewed by the Planning and Zoning Commission and approved by the City Council. All other uses are permitted only as listed under each specific zoning district.

20. Vacation of Plats. The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition with the Planning and Zoning Commission; the petition and recommendation are filed with the City Council, and they shall set a time and place for a public hearing on the petition. Written notice of the public hearing shall be provided by the petitioner to proprietors and mortgagees within 300 feet of the area to be vacated. If a portion of the official plat adjoins a river or State-owned lake, the Iowa Department of Natural Resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with fourteen (14) days between publications stating the date, time, and place of the public hearing. The official plat or portion of the official plat shall be vacated upon recording of all the following documents:

A. An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each property along with an accurate description to be used to describe the land after the lots are vacated.

B. A resolution by the City Council approving the vacation and providing for the conveyance of those areas included in the vacation that were previously set aside for dedicated public use.

C. A certificate of the County Auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

No part of this subsection authorizes the closing or obstruction of public highways. The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use of property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees within the official plat.

21. Vacation of Streets and Other Public Lands. The City may vacate a part of an official plat that had been conveyed to the City or dedicated to public which is deemed by the Planning and Zoning Commission and City Council to be of no benefit to the public. The City Council shall vacate by resolution following a public hearing or by ordinance and the vacation instrument shall be recorded. The City may convey the vacated property by deed and/or may convey the property to adjoining proprietors

through the vacation instrument. If the vacating instrument is used to convey property, then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed. A recorded vacation instrument that conforms to this subsection is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the County Recorder and County Auditor.

[The next page is 841]

**165.04 SPECIAL PROVISIONS.**

1. Regulations to Be Uniformly Applied. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.
2. All Uses and Structures to Conform. 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 unless in conformity with all of the regulations herein specified for the district in which it is located.
3. Height, Density, or Yard Requirements Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards or other open spaces than herein required or in any other manner contrary to the provisions of this chapter.
4. Separate Yards, Open Space and Off-Street Parking Required. No part of a yard or other open space or off-street parking or loading space required above or in connection with any building, for the purpose of complying with this chapter, shall be included as part of a yard or off-street parking or loading space similarly required for any other building.
5. Minimum Yards and Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of the 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 the zoning ordinance shall meet at least the minimum requirements established by this chapter.
6. New Areas. All territory that may hereafter become a part of the incorporated area of Sumner through annexation shall be classified in the A-1, Agricultural District, until otherwise classified provided; however, the City Planning and Zoning Commission may recommend the appropriate district classifications prior to such territory becoming a part of the City and upon the holding of a public hearing and approval by the City Council, the territory, upon becoming a part of the City, may be immediately so classified.
7. Zoning For Subdivision. Any property proposed for subdivision shall be correctly zoned to accommodate the proposed uses before the subdivision process is begun.
8. Nonconforming Uses. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures that were lawful before the zoning ordinance was passed and amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except for the following:
  - A. Any single-family dwelling within a C-1, C-2, C-3, M-1, or M-2 zoning district as of September 16, 2002, may continue. Any single-family

dwelling within a C-1, C-2, C-3, M-1, or M-2 zoning district will have the same privileges and restrictions as a single-family dwelling within an R-1 or R-2 zoning district except for the following:

- (1) Should the single-family dwelling be destroyed more than 50 percent of the assessed value, the owner will be allowed to rebuild on site. The yard requirements for this rebuilding of the dwelling will be as follows:
  - a. Side yard requirement – two feet
  - b. Front yard requirement – five feet
  - c. Rear yard requirement – two feet
  - d. Corner lot requirement – five feet
- (2) If, after a loss, the structure is rebuilt on site, the use of the structure must be the same as it was on the date of loss.
- (3) Any single-family dwelling being rebuilt on site, because of loss, must be completed 12 months from date of loss.
- (4) If the single-family structure is not completed within the 12-month period, then the permitted use of the property would return to the requirements allowed in each specific zoning district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the zoning ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this subsection 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 the zoning ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

9. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the zoning ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of the area, width, and yard requirements shall be obtained through action of the Board of Adjustment. If two or more lots or combinations of lots and portions of lots with continuous frontage

in single ownership are of record at the time of passage or amendment of the zoning ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

10. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of the zoning ordinance, lawful use of land exists that is made no longer permissible under the terms of the ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provision:

- A. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance.
- C. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

11. Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of the zoning ordinance that could not be built under the terms of the ordinance by reason or restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity.
- B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

12. Nonconforming Uses of Structures. If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of the zoning ordinance, that would not be allowed in the district under the terms of the ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the zoning ordinance, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use, provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

E. When a nonconforming use of a structure or structure and premises in combination is discontinued for a period of one year, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

13. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten percent of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of the zoning ordinance shall not be increased.

14. Destruction of Nonconforming Building or Structure. Any nonconforming building or structure that has been or may be damaged by fire, flood, explosions, earthquake, war, riot, or any other act of God, may be reconstructed and used as before if it can 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 the damage, in which case reconstruction shall be in accordance with the provision of this chapter.

15. Uses Under Exception Provision Not Nonconforming Uses. Any uses for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

16. Off-Street Parking Areas and Loading Spaces. Each parking space rectangular in shape shall be not less than 9 feet wide and 20 feet long, or not less than 180 square feet in area, exclusive of access drives or aisles. Each loading space shall not be less than 10 feet wide, 65 feet in length, and 14 feet in height, exclusive of access and turning areas. 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 public or customers, patrons or clients, but does not include areas used principally for non-public purposes, such as toilet or restroom, utilities, or dressing rooms. 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 chapter. Off-street accessory parking area shall be of usable shape, and shall be improved with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation on the area. Any lighting used to illuminate such parking areas shall be arranged as to reflect light away from adjoining premises in any R District.

17. Appeal to Board of Adjustment. 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.

18. Height Limitation. The requirements and regulations specified elsewhere in this chapter shall be subject to additional requirements, exceptions, modifications and interpretations contained in this section. Height limitations stipulated elsewhere in this chapter shall not apply in the following situations:

A. To barns, silos, or other farm buildings or structures on farms, provided these are not less than 50 feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts, and aerials; to parapet walls extending not more than four feet above the limiting height of the building. However, if, in the opinion of the Zoning Administrator, such structure would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.

B. To bulkheads, conveyors, derricks, elevator penthouses, ventilators, 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 than specified, such may be authorized by the Board of Adjustment.

C. To satellite ground dish antennas where the minimum height shall be three feet above the ground measured at the lowest point of the dish. Any satellite ground dish antennas that, in the opinion of the Zoning Administrator, would adversely affect adjoining or adjacent properties shall not be authorized except by the Board of Adjustment.

D. To satellite rooftop dish antennas that do not exceed three feet in diameter, provided that the satellite dish antennas meet the structural requirements as required by the building code. Satellite rooftop dish antennas in excess of three feet in diameter shall not be authorized by the Board of Adjustment.

#### **165.05 PLACEMENT OF COMMUNICATION TOWERS AND ANTENNAS ON CITY-OWNED OR CONTROLLED REAL ESTATE.**

1. Purpose and General Policy. The Council finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property, it is

necessary for the City to establish uniform rules and policies. This section is to be interpreted in light of these findings for the benefit of the citizens of the City.

2. Definitions. As used in this section:
  - A. “Antenna” means a device, dish or array used to transmit or receive telecommunications signals.
  - B. “Communications tower” means a tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building.
  - C. “Height” of a communication tower is the distance from the base of the tower to the top of the structure.
  - D. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.
3. Local Regulation and Compliance with the Telecommunications Act of 1996. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communication towers and antennas.
  - A. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.
  - B. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.
  - C. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.
  - D. To assure revenues from site leases of City-owned and controlled land and structures reflects fair compensation for use of City property and administration of this section.
4. Lease Required. No person or other entity shall use any public property without first obtaining a lease from the City.
5. Fee Required. No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.
6. Limit on Term. No lease for the use of public property shall be granted for a term of more than 25 years.
7. Priorities. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:
  - A. All functions of the City of Sumner.
  - B. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.



- C. Other governmental agencies for uses that are not related to public safety.
  - D. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.
8. Placement Requirements. The placement of communications antennas or towers on City-owned property must comply with the following requirements:
- A. The antenna or tower will not interfere with the purpose of which the City-owned property is intended.
  - B. The antenna or tower will have no adverse impact on surrounding private property.
  - C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities and commit to a lease agreement, which includes equitable compensation for the use of public land and other necessary provisions and safe-guards. The fee shall be established by the City Council in subsection 5 of this section and shall reflect potential expenses and risks to the City and other appropriate factors.
  - D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.
  - E. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.
  - F. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.
  - G. The applicant must reimburse the City for any costs that it incurs because of the presence of the applicant's antenna or tower.
  - H. The user must obtain all necessary land use approval.
  - I. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate antenna sites requested.
9. Application Process. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the City Clerk a completed application accompanied by a fee of \$200.00 and the following documents, if applicable:
- A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
  - B. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscapes plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.

- C. A current map or update for an existing map on file showing locations of applicant's antennas, facilities, existing towers and proposed towers, which are reflected in public records, serving any property within the City.
  - D. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision, standards.
  - E. Identification of the owner of all antennas and equipment to be located on the site.
  - F. Written authorization from the site owner for the application.
  - G. Evidence that a valid FCC license for the proposed activity has been issued.
  - H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
  - I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
  - J. Additional information, as required, to determine that all applicable zoning regulations are met.
  - K. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to:
    - (i) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City; or
    - (ii) camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.
10. Additional Requirements. Applicant must also show evidence that all of the following conditions that are applicable are met:
- A. Applicant must show that the proposed communications tower, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.
  - B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.
  - C. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.
  - D. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are

unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.

E. Applicant must provide the names, addresses, and telephone numbers of all owners of other towers or useable antenna support structures within one-half mile radius of the proposed new tower site, including City-owned property and written documentation that the applicant: (i) made diligent but unsuccessful efforts for a minimum of 40 days prior to the submission of the application to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site; or (ii) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

F. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.

G. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

H. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish that is galvanized or painted dull blue, gray or black.

I. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the City Clerk a written indemnification of the City and proof of liability insurance or financial ability to respond to claims, up to \$1,000,000.00 in the aggregate, which may arise from operation of the facility during its life, at no cost to the City, in form approved by the City Attorney.

J. Land use regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage and all other general zoning district regulations, except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:

(1) Residential (R-1, R-2, R-4). Freestanding tower with height not exceeding 100 feet is permitted conditional use; height exceeding 100 feet requires special exception.

(2) Commercial (C-2, C-2). Freestanding or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.

(3) Industrial (M-1, M-2). Freestanding or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.

(4) Agriculture (A-1). Freestanding or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.

K. A tower must be a minimum distance equal to one and one-half the height of the tower from property designated historic or architecturally significant and must be set back from all lot lines at distances equal to the district setback requirements or 25% of the tower height, whichever is greater.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within 60 days after all application materials are received.

11. Placement of Facilities and Related Lease Fees. The placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met.

A. Water Tower or Reservoir Sites. The City's water tower and reservoir represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met.

(1) The applicant must have written approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.

(2) There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.

(3) The presence of the facility will not increase the water tower or reservoir maintenance cost to the City.

(4) The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower or reservoir.

(5) The initial installation fee and yearly lease fee will be determined by the City Council.

B. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the Park Board and the approval of the City Council.

(1) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.

(2) Commercial recreational areas and major ball fields.

## (3) Park maintenance facilities.

The initial installation fee and yearly lease fee will be determined by the Sumner City Council.

19. Noise and Emission Standards. No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily.

20. Abandonment. In the event the use of any communication tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City Clerk, who shall have the right to request documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or (ii) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

21. Termination. The City Council may terminate any lease if it is determined that any one of the following conditions exist.

- A. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.
- B. A user's frequency broadcast unreasonable interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
- C. A user violates any of the standards in this section or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the City Council regarding the proposed action. This procedure need not be followed in emergency situations.

22. Home Rule. This section is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25<sup>th</sup> Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforced against the holders of any lease.

23. New Technologies. Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the City Council, who, with such requirements or limitations as it deems necessary to protect public health, safety, and

welfare, may allow the use of such substances under the terms and conditions of the lease.

[The next page is 865]

**165.06 ESTABLISHMENT OF ZONING DISTRICTS.** For the purposes of this chapter, the City is hereby organized into the following zoning districts:

1. Agricultural Districts. The A-1 Agricultural District is regulated by Section 165.10 of this chapter.
2. Residential Districts.
  - A. The R-1 Single-Family Residential District is regulated by Section 165.11 of this chapter.
  - B. The R-2 Mixed Residential District is regulated by Section 165.12 of this chapter.
  - C. The R-4 Mobile Home Trailer Park and Lots District is regulated by Section 165.13 of this chapter.
3. Commercial Districts.
  - A. The C-1 Highway Commercial District is regulated by Section 165.14 of this chapter.
  - B. The C-2 General Retail District is regulated by Section 165.15 of this chapter.
  - C. The C-3 Commercial/Industrial District is regulated by Section 165.16 of this chapter.
4. Manufacturing Districts.
  - A. The M-1 Light Industry District is regulated by Section 165.17 of this chapter.
  - B. The M-2 Heavy Industry District is regulated by Section 165.18 of this chapter.

The location and boundaries of the zoning districts established by this section are set forth on the map entitled “Zoning Map,” which is located in the City Hall and hereby made a part of this chapter. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein.

**165.07 CHANGES IN OFFICIAL ZONING MAP.** No changes in the official zoning map shall be made except as may be required by amendments to this chapter. If required, such changes shall be promptly made, and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the official zoning map. Any unauthorized change of any kind whatsoever in the official zoning map by any person or person shall constitute a violation of this chapter. *(See EDITOR’S NOTE at the end of this chapter for ordinances amending the zoning map.)*

**165.08 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** Where uncertainly exists with respect to the Zoning, Map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of such streets, highways, or alleys.
2. Boundaries shown as following or approximately following platted lot lines or other property lines shall be construed to follow said boundary lines.

3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at a mean low water mark.
5. Boundaries shown as following or closely following the City limits shall be construed as following such City limit lines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsection 1 through 5 of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. 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 the Subdivision Ordinance, the Board of Adjustment shall interpret the district boundaries.
8. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classifications of the vacated land.

**165.09 ANNEXED TERRITORY.** All territory that may hereafter be annexed to the City shall be classed automatically as being in an R-1 Residential District until such classification shall have been changed by amendment of this chapter, as provided herein.

[The next page is 875]



**165.10 AGRICULTURAL (A-1) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Agriculture, horticulture, dairy farming, general farming, and other agricultural activities	None
Single-family dwelling	2 spaces per unit
Park, playground, and recreation area not conducted as a business	5 spaces for each acre developed for active use
Golf course and country club, except miniature course or driving ranges operated for profit	3 spaces per green plus 1 space for every 100 square feet of floor area
Community meeting or recreation building	1 space for every 50 square feet of floor area
Riding stable	2 spaces
Kennel	2 spaces
Cemetery or mausoleum	10 spaces plus 1 space per acre
Church	1 space for every 4 seats in main auditorium
Elementary or secondary school	1 space per classroom and office plus 1 for every 6 seats in an auditorium or stadium
Railroads or public utilities	1 space for each employee plus 1 for every vehicle used by facility

2. Minimum Lot Area, Width and Depth. For dwellings, minimum area must be 20,000 square feet and width must be 125 feet. The distance from an adjoining property to the structure will be measured to the widest part of the structure. This will include the drip line of the roof.

3. Minimum Yard Requirements.

A. Dwellings and Non-Institutional Buildings:

Front..... 30 feet  
 Rear ..... 30 feet  
 Side ..... 10 feet  
 Side Street, Corner Lot..... 25 feet

B. Schools, Churches and Institutional Buildings:

Front..... 50 feet  
 Rear ..... 40 feet  
 Side ..... 40 feet  
 Side Street, Corner Lot..... 30 feet

4. Maximum Height and Minimum Dwelling Width.

A. Maximum Height – 3 stories or 35 feet.

B. Minimum Dwelling Width – 22 feet minimum width and attached to permanent foundation system.

5. Permitted Accessory Uses and Structures.
  - A. Farm buildings incidental to agricultural uses.
  - B. Private garages.
  - C. Private swimming pools.
  - D. Private greenhouses not operated for commercial purposes.
  - E. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.
  - F. Temporary buildings used in conjunction with construction work.
  - G. Storage sheds.
6. Permitted Signs.
  - A. Nameplates attached flat against the wall of the main building, not to exceed one square foot in area.
  - B. Church or public bulletin boards, not to exceed 12 square feet in area.
  - C. Temporary signs advertising the lease or sale of the premises, not to exceed six square feet in area.
  - D. Home occupation signs, not to exceed two square feet in area.
  - E. Billboards or advertising signs, provided:
    - (1) They are not within 150 feet of an intersection, highway structure, residence, or another billboard.
    - (2) They are not within 150 feet of a park, school, cemetery, or public or semi-public building.
    - (3) They are not within 75 feet of the centerline of a City road.
  - F. A permit is required to erect an advertising sign.
  - G. All signs and billboards shall be maintained in a neat and presentable condition, and in the event their use ceases, the area shall be restored to a condition free from refuse and rubbish.
7. Special Requirements.
  - A. No building permit shall be issued for a dwelling unit in the Agricultural District for any parcel of land that is designated for commercial or industrial uses on the future land use plan of the City.
  - B. Drip line of the accessory building must be two feet from the property line.
8. Special Exception Uses and Structures. The Board of Adjustment may permit the following:
  - A. Sanitary landfill or waste disposal area, provided that: (i) it is not used for disposal of dead animals; (ii) refuse shall be covered with dirt daily if it contains raw garbage; (iii) a nuisance due to smoke, odor, or blowing of trash and debris shall not be created; and (iv) the site shall be restored to a

condition compatible with the adjacent area upon conclusion of the dump operation. An access road having at least a graveled surface and five parking spaces shall be provided. No landfill or waste disposal area shall be located closer than ¼ mile to any dwelling, park, school, or place of public assembly.

B. Quarry and/or gravel pit.

C. The keeping of any animal shall be kept a minimum distance of 300 feet from the nearest existing dwelling, excluding the dwelling owned by the applicant. This does not apply to the usual keeping of household pets not for commercial use. Notification of Board of Adjustment meeting shall be made to property owners within 1,320 feet from the property line of the applicant.

[The next page is 885]

**165.11 RESIDENTIAL (R-1) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Single-family dwelling	2 spaces per unit
Park, playground, and recreation area not conducted as a business	5 spaces for each acre developed for active use
Golf course and country club, except miniature golf course or driving ranges operated for profit	3 spaces per green plus 1 space for every 100 square feet of floor area
Community meeting or recreation building	1 space for every 50 square feet of floor area
Swimming pool	1 space for every 50 square feet of water area
Elementary or secondary school	1 space per classroom and office plus 1 for every 6 seats in an auditorium or stadium
Church	1 space for every 4 seats in main auditorium
Cemetery or mausoleum	10 spaces plus 1 per acre

2. Minimum Lot Area, Width and Depth.

A. Single-Family Dwelling:

Area..... 9,000 square feet  
 Width..... 75 feet  
 Depth..... 120 feet

Where a lot is not served by a public water and/or sanitary sewer system, the minimum lot area shall not be less than 20,000 square feet, and the width not less than 125 feet.

3. Minimum Yard Requirements.

A. Dwellings and Non-Institutional Buildings:

Front..... 30 feet  
 Rear ..... 30 feet  
 Side (1 story)..... 8 feet  
 Side Street, Corner Lot..... 20 feet

B. Schools, Churches, Institutional Buildings:

Front..... 35 feet  
 Rear ..... 35 feet  
 Side ..... 25 feet  
 Street Side, Corner Lot..... 20 feet

4. Maximum Height and Minimum Dwelling Width.

A. Height – 3 stories or 35 feet.

B. Minimum Dwelling Width – 22 feet minimum width and attached to a permanent foundation.

5. Permitted Signs.
  - A. Nameplates attached flat against the wall of the main building, not to exceed one square foot in area.
  - B. Church or public bulletin board, not to exceed 12 square feet in area.
  - C. Temporary signs advertising the lease or sale of the premises, not to exceed six square feet in area.
  - D. Home occupation sign, not to exceed two square feet in area.
  - E. Illumination of signs, bulletin boards, and nameplates shall not exceed 60 watts and shall be lighted only with indirect, non-intermittent lighting.
  - F. Signs and bulletin boards shall be at least 20 feet from the front lot line or not more than five feet in front of the main building.
  - G. All signs shall be maintained in a neat and presentable condition and in the event their use ceases, they shall be promptly removed and the area restored to a condition free from refuse and rubbish.
  - H. A permit is required to erect an advertising sign.
6. Permitted Accessory Uses and Structures.
  - A. Private garages.
  - B. Private swimming pools.
  - C. Private greenhouses not operated for commercial purposes.
  - D. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations and located on the same lot or a contiguous lot under the same ownership.
  - E. Temporary buildings used in conjunction with construction work.
  - F. Storage sheds.
7. Special Exception Uses and Structures. The Board of Adjustment may permit the following:
  - A. Hospitals, sanitariums, rest, nursing and convalescent homes, homes for orphans and aged on sites of one acre or more; off-street parking and yards comparable for other institutional uses in this chapter shall be provided.
  - B. Railroads and public utilities (but not including equipment storage or maintenance yards and buildings or general administrative and sales offices), provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 25 feet and that two parking spaces per substation or one per employee on the site be provided.
  - C. Public housing development on sites of one acre or more, off-street parking of one space per unit to be provided.

8. Special Requirements.
  - A. Distance from adjoining property to the structure will be measured to the widest part of the structure. This will include the drip line.
  - B. Drip line of an accessory building must be two feet from the property line.

[The next page is 895]



**165.12 RESIDENTIAL (R-2) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking. Any permitted use or structure that is allowed in an R-1 District is also allowed in R-2 Districts.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Single-family dwelling	2 spaces per unit
Two-family dwelling	1 space per unit
Multiple-family dwelling	1 space per unit
Boarding house; bed and breakfast	1 space for every 2 patrons
Park, playground, and recreation area not conducted as a business	5 spaces for each acre developed for active use
Community meeting or recreation building	1 space for every 50 square feet of floor area
Elementary or secondary school	1 space per classroom and office plus 1 for every 6 seats in an auditorium or stadium
Private kindergartens and day nurseries	1 space plus 1 per each employee
Church	1 space for every 4 seats in main auditorium
Funeral parlor	1 space for every 4 seats in the chapel

2. Minimum Lot Area, Width and Depth.
- A. Single-Family Dwelling:  
Area – 7,000 square feet  
Width – 65 feet
- B. Two-Family Dwelling:  
Area – 8,400 square feet  
Width – 70 feet
- C. Multi-Family Dwelling:  
Area – 6,000 square feet for the first unit plus 1,500 square feet for each additional unit up to 12 and 750 square feet for each additional unit over 12  
Width – 80 feet
3. Maximum Height and Minimum Dwelling Width.
- A. Height – 3 stories or 35 feet
- B. Minimum Dwelling Width – 22 feet minimum width and attached to a permanent foundation.
4. Minimum Yard Requirements.
- A. Dwellings and Non-Institutional Buildings:
- Front..... 30 feet  
Rear ..... 30 feet  
Side  
    1 story..... 8 feet  
    2 stories or more..... 8 feet  
Side street, corner lot ..... 20 feet

- B. Schools, Churches, and Institutional Buildings:
  - Front ..... 35 feet
  - Rear ..... 35 feet
  - Side ..... 15 feet
  - Street side, corner lot ..... 20 feet
- 5. Permitted Accessory Uses and Structures.
  - A. Private garages.
  - B. Private swimming pools.
  - C. Private greenhouses not operated for commercial purposes.
  - D. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.
  - E. Temporary building used in conjunction with construction work.
  - F. Storage sheds.
- 6. Permitted Signs.
  - A. Nameplates attached flat against the wall of the main building, not to exceed three square feet area.
  - B. Church or public bulletin board, not to exceed 12 square feet area.
  - C. Temporary signs advertising the lease of sale of the premises, not to exceed six square feet in area.
  - D. Home occupation signs, not to exceed two square feet in area.
  - E. Illumination of signs, bulletin boards and nameplates shall not exceed 60 watts and shall be lighted only with indirect, non-intermittent lighting.
  - F. Signs and bulletin boards shall be at least 25 feet from the front lot line or not more than five feet in front of the main building.
  - G. All signs shall be maintained in a neat and presentable condition and in the event their use ceases, they shall be promptly be removed and the surrounding area restored to a condition free from refuse and rubbish.
  - H. A permit is required to erect an advertising sign.
- 7. Special Requirements.
  - A. Distance from adjoining property to the structure will be measured to the widest part of the structure. This will include the drip line.
  - B. Drip line of an accessory building must be two feet from the property line.
- 8. Special Exception Uses and Structures. The Board of Adjustment may permit the following:
  - A. Hospitals, sanitariums, rest, nursing and convalescent homes, homes for orphans and aged on sites of one acre or more, off-street parking and yards comparable for other institutional uses of this chapter to be provided.

B. Railroads and public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 25 feet and that two parking spaces per substation or one per employee on the site be provided.

C. Public housing development on sites of one acre or more, off-street parking of one space per unit to be provided.

[The next page is 905]

**165.13 RESIDENTIAL (R-4) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Mobile home trailer park	None
Mobile home lot	1 space per lot

2. Minimum Lot Area, Width and Depth.
  - A. Mobile Home Trailer Park:
    - Minimum Area ..... 2 acres
    - Minimum Lot ..... 150 feet
    - Minimum Street Width ..... 20 feet
  - B. Mobile Home Lot:
    - Minimum Lot Area ..... 3,600 square feet
    - Minimum Lot Width ..... 40 feet
3. Minimum Yard Requirements.
  - A. Mobile Home Trailer Park:
    - Minimum Front Yard ..... 35 feet
    - Minimum Side Yard ..... 35 feet
    - Minimum Side, Street Corner Yard .... 35 feet
    - Minimum Rear Yard ..... 35 feet
  - B. Mobile Home Lot:
    - Minimum Front Yard ..... 20 feet
    - Minimum Side Yard ..... 10 feet
    - Minimum Rear Yard ..... 10 feet

Minimum yard requirements for mobile home lots on outer perimeter of mobile home park may be inclusive in mobile home park yard requirements.

4. Maximum Height and Minimum Dwelling Width:
  - A. Maximum Height – 3 stories or 35 feet
  - B. Minimum Dwelling Width – None
5. Permitted Signs.
  - A. Nameplates attached flat against the wall of the main structure, not to exceed one square foot in area.
  - B. A home occupation sign is not to exceed two square feet in area.
  - C. A permit is required to erect an advertising sign.
6. Permitted Accessory Uses and Structures:
  - A. Private garages, storage sheds and uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home

occupations and located on the same lot or contiguous lot under the same ownership.

7. Special Requirements.

A. Distance from adjoining property to the structure will be measured to the widest part of the structure. This will include the drip line.

B. The drip line of an accessory building must be two feet from the property line and/or the lot line.

[The next page is 913]

**165.14 HIGHWAY COMMERCIAL (C-1) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Automotive display, sales, service, repair, and light machining	1 space for every 300 square feet of sales, service, manufacturing, or office floor area
Farm implement display, sales, service, and repair	1 space for every 300 square feet of sales, service, or office floor area
Plant nursery, greenhouse, and sales room	1 space for every 300 square feet of sales, service, or office floor area
Restaurant, night club, café or tavern	1 space for every 100 square feet of floor area
Dance hall and skating rink	1 space for every 100 square feet of floor area
Drive-in eating and drinking establishment	5 spaces for every 100 square feet of floor area
Bowling alley	1 space for each lane or alley
Motel or campsite	1 space per unit or campsite
Dwelling units above or adjacent (with a common wall) to a shop or store	1 space per unit
Railroads and public utilities (but not including storage or maintenance yards and buildings)	1 space per employee plus 1 for each vehicle used by the facility
Plumbing and heating business	1 space per employee plus 1 for each vehicle used by the business

2. Minimum Lot Area Width and Depth. None required.
3. Minimum Yard Requirements.
  - A. The front yard requirement is 15 feet.
  - B. There are no side or rear yard requirements except where apartments are above a store or shop, a rear yard of 20 feet shall be provided, and where adjacent to an A or R District, a side yard of 10 feet and a rear yard of 20 feet shall be provided.
4. Maximum Height and Minimum Dwelling Width.
  - A. Maximum Height – 3 stories or 35 feet
5. Permitted Signs. A permit is required to erect an advertising sign. The requirements are as follows:
  - A. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.
  - B. Signs must be mounted flush on the wall of the building on which they are located and shall not exceed 200 square feet in area.
  - C. Overhanging signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building and shall not be more than 100 square feet in area.
  - D. No more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.

- E. Signs are not to be within 25 feet of an A or R District.
  - F. No sign or billboard shall be located in or overhang or project into a required yard.
  - G. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use ceases, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
- 6. Permitted Accessory Uses and Structures.
    - A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
    - B. Storage warehouses in conjunction with the permitted principal uses or structures of this district.
    - C. Temporary buildings used in conjunction with construction work.
    - D. Sales and servicing of trucks.
  - 7. Special Exception Uses and Structures. None.

[The next page is 921]



**165.15 HIGHWAY COMMERCIAL (C-2) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking. Any permitted use or structure that is allowed in a C-1 District is also allowed in C-2 Districts.

Principal Permitted Use	Minimum Required Off-Street Parking
Automotive display, sales, service and repair	No off-street parking is required in the C-2 District.
Farm implement display, sales, service, and repair	
Dry cleaners or laundry	
Bus terminal	
Clubs and lodges	
Retail business and financial institutions	
Personal services and repair shop	
Business and professional offices and studios	
Medical, dental and chiropractic clinics	
Restaurant, night club, café or tavern	
Public building	
Public garages, storage garages and parking lots	
Plumbing and heating business, sales, service and repair shops	
Hotels and motels	
Printing, publishing and engraving	
Dwelling units above or adjacent (with a common wall) to a shop or store	
Commercial amusements	
Wholesale display and salesroom	
Lumber yard or building material sales	
Bakery	
Monument and marker display and sales	
Railroads and public utilities (but not including storage or maintenance yards and buildings)	
Funeral home	

2. Minimum Lot Area, Width and Depth. None required.

A. Minimum Yard Requirements. There are no side or rear yard requirements, except where apartments are above a store or shop, a rear yard of 20 feet shall be provided, and where adjacent to an A or R District, a side yard of 10 feet and a rear yard of 20 feet shall be provided.

3. Maximum Height and Minimum Dwelling Width.

Maximum Height – 4 stories or 50 feet

4. Permitted Signs. A permit is required to erect an advertising sign. The requirements are as follows:

A. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.

B. Signs must be mounted flush on the wall of the building on which they are located and shall not exceed 200 square feet in area.

- C. Overhanging signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building and shall not be more than 100 square feet area.
  - D. No more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
  - E. No sign or billboard shall be located in or overhang or project into a required yard.
  - F. All signs and billboards shall be maintained in a neat and presentable condition, and in the event their use ceases, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
- 5. Permitted Accessory Uses and Structures.
    - A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
    - B. Storage warehouses in conjunction with the permitted principal uses or structures of this district.
    - C. Temporary buildings used in conjunction with construction work.
  - 6. Special Exception Uses and Structures. None.

[The next page is 929]

**165.16 COMMERCIAL/INDUSTRIAL (C-3) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking. Any permitted use or structure that is allowed in the C-1 and C-2 Districts is also allowed in the C-3 District.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Manufacturing and processing uses that are wholly contained within a building and have no exterior storage, create no offensive noise, odor, vibration, or electrical interference	1 space for each employee plus 1 space for each vehicle used by the industry
Wholesaling and warehousing but NOT including the bulk storage of liquid, dry, or compressed gas, fertilizers, or petroleum products under pressure	1 space for every 2 employees plus 1 space for each vehicle used by the industry
Lumber yard and building material sales and storage	1 space for each employee plus 1 space for each vehicle used by the industry
Farm implement display, sales, service, and repair	1 space for each employee plus 1 space for each vehicle used by the industry
Automobile paint and body shop	1 space for every 300 square feet of sales, service, or office floor area
Animal hospital	1 space for every 300 square feet of sales, service, or office floor area
Truck sales, display, repair and storage	1 space for every 300 square feet of sales, service, or office floor area
Frozen food locker (no animal slaughter)	1 space for every 300 square feet of sales, service, or office floor area
Welding and repair shop	1 space for each employee plus 1 space for each vehicle used by the industry
Cabinet and machine shop	1 space for each employee plus 1 space for each vehicle used by the industry
Plumbing, heating, air conditioning and sheet metal shop	1 space for each employee plus 1 space for each vehicle used by the industry
Electrical wholesaling and retailing	1 space for each employee plus 1 space for each vehicle used by the industry
Public and community buildings	1 space for each employee plus 1 space for every 4 seats of meeting room capacity

2. Minimum Lot Area, Width and Depth. None required.
3. Minimum Yard Requirements.
- Front.....25 feet
- Rear .....25 feet
- Side.....20 feet
- Side Street, Corner Lot.....20 feet
4. Maximum Height and Minimum Dwelling Width.
- Maximum Height – 2 stories or 50 feet

5. Permitted Signs. A permit is required to erect an advertising sign. The requirements are as follows:
  - A. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.
  - B. Signs must be mounted flush on the wall of the building on which they are located and not exceed 200 square feet in area.
  - C. Overhanging signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building and shall not be more than 100 square feet in area.
  - D. Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
  - E. All signs and billboards shall be maintained in a neat and presentable condition, and in the event their use ceases, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
6. Permitted Accessory Uses and Structures.
  - A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
  - B. Temporary buildings used in conjunction with construction work.
  - C. Recycling Center.
7. Special Requirements.
  - A. All uses shall provide at least one loading space for each 10,000 square feet of floor area.

[The next page is 937]

**165.17 LIGHT INDUSTRIAL (M-1) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Manufacturing and processing uses that are wholly contained within a building and have no exterior storage, create no offensive noise, odor, vibration, or electrical interference	1 space for every two employees plus 1 space for each vehicle used by the industry
Wholesaling and warehousing but NOT including the bulk storage of liquid fertilizers or petroleum products under pressure	1 space for every 2 employees plus 1 space for each vehicle used by the industry
Lumber yard and building material sales and storage	1 space for each employee plus 1 space for each vehicle used by the industry
Farm implement display, sales, service, and repair	1 space for each employee plus 1 space for each vehicle used by the industry
Automobile paint and body shop	1 space for every 300 square feet of sales, service, or office floor area
Animal hospital or kennel	1 space for every 300 square feet of sales, service, or office floor area
Truck sales, display, repair and storage	1 space for every 300 square feet of sales, service, or office floor area
Frozen food locker	1 space for every 300 square feet of sales, service, or office floor area
Welding and repair shop	1 space for each employee plus 1 space for each vehicle used by the industry
Cabinet and machine shop	1 space for each employee plus 1 space for each vehicle used by the industry
Plumbing, heating, air conditioning and sheet metal shops	1 space for each employee plus 1 space for each vehicle used by the industry
Railroads and public utilities, including storage and maintenance yards	1 space for each employee plus 1 space for each vehicle used by the industry
Truck and freight terminal	1 space for each employee plus 1 space for each vehicle used by the industry
Creamery	1 space for each employee plus 1 space for each vehicle used by the industry
Grain storage bins	1 space for each employee plus 1 space for each vehicle used by the industry
Grain elevator	1 space for each employee plus 1 space for each vehicle used by the industry

2. Minimum Lot Area Width and Depth. None required.
3. Minimum Yard Requirements,
- Front.....25 feet
- Rear .....25 feet
- Side.....20 feet
- Side Street, Corner Lot.....20 feet

4. Maximum Height and Minimum Dwelling Width.  
Maximum Height – 4 stories or 50 feet
5. Permitted Signs. A permit is required to erect an advertising sign. The requirements are as follows:
  - A. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.
  - B. Signs must be mounted flush on the wall of the building on which they are located and not exceed 200 square feet in area.
  - C. Overhanging signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building and shall not be more than 100 square feet in area.
  - D. Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
  - E. All signs and billboards shall be maintained in a neat and presentable condition, and in the event their use ceases, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
6. Permitted Accessory Uses and Structures.
  - A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
  - B. Temporary buildings used in conjunction with construction work.
  - C. Recycling center.
  - D. Dwelling units for watchmen or caretakers employed on the premises, provided that an open yard of at least 2,400 square feet is reserved and maintained for use by the occupants.
7. Special Requirements.
  - A. All uses shall provide at least one loading space for each 10,000 square feet of floor area.

[The next page is 945]

**165.18 HEAVY INDUSTRIAL (M-2) DISTRICT REQUIREMENTS.**

1. Permitted Principal Uses and Structures; Minimum Required Off-Street Parking. Any permitted use or structure that is allowed in an M-1 District is allowed in an M-2 District.

<b>Principal Permitted Use</b>	<b>Minimum Required Off-Street Parking</b>
Manufacturing and processing uses that are wholly contained within a building and have no exterior storage, create no offensive noise, odor, vibration, or electrical interference	1 space for every two employees plus 1 space for each vehicle used by the industry
Wholesaling and warehousing but NOT including the exclusive wholesaling and warehousing of anhydrous ammonia or liquid petroleum	1 space for every 200 feet of floor area
Truck and freight terminal	1 space for every 300 square feet of sales, service, or office floor area
Lumber yard and building material sale and storage	1 space for each employee plus 1 space for each vehicle used by the industry
Animal hospital or kennel	1 space for each employee plus 1 space for each vehicle used by the industry
Grain storage bins	1 space for each employee plus 1 space for each vehicle used by the industry
Grain elevator and feed mill	1 space for each employee plus 1 space for each vehicle used by the industry
Welding and repair shop	1 space for each employee plus 1 space for each vehicle used by the industry
Toll, die, gauge, and machine shops	1 space for each employee plus 1 space for each vehicle used by the industry
Railroads and public utilities, including storage and maintenance yards	1 space for each employee plus 1 space for each vehicle used by the industry
Automobile paint and body shop	1 space for each employee plus 1 space for each vehicle used by the industry
Plumbing, heating, air conditioning and sheet metal shops	1 space for each employee plus 1 space for each vehicle used by the industry
Processing and handling of cheese, butter, and other milk products	1 space for each employee plus 1 space for each vehicle used by the industry
Contractor's shop and storage shop	1 space for each employee plus 1 space for each vehicle used by the industry
Concrete products manufacture and central mixing and proportioning plant	1 space for each employee plus 1 space for each vehicle used by the industry
Structural iron and steel fabrication	1 space for each employee plus 1 space for each vehicle used by the industry

2. Minimum Lot Area, Width and Depth. None required.
3. Minimum Yard Requirements.
- Front.....25 feet
- Rear .....25 feet
- Side.....20 feet
- Side Street, Corner Lot.....20 feet

4. Maximum Height and Minimum Dwelling Width.  
Maximum Height – 60 feet
5. Permitted Signs. A permit is required to erect an advertising sign. The requirements are as follows:
  - A. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.
  - B. Signs must be mounted flush on the wall of the building on which they are located and not exceed 200 square feet in area.
  - C. Overhanging signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building and shall not be more than 100 square feet in area.
  - D. Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
  - E. All signs and billboards shall be maintained in a neat and presentable condition, and in the event their use ceases, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
6. Permitted Accessory Uses and Structures.
  - A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
  - B. Temporary buildings used in conjunction with construction work.
  - C. Recycling center.
  - D. Dwelling units for watchmen or caretaker employed on the premises, provided that an open yard of at least 2,400 square feet is reserved and maintained for use by the occupants.
  - E. As of the effective date of the zoning ordinance, no additional anhydrous ammonia bulk storage tanks will be built within the City limits of Sumner, Iowa. Existing tanks used for the storage of anhydrous ammonia, and the use of such tanks, will be subject to the regulations enacted by the Secretary of Agriculture of the State of Iowa. Bulk storage tanks used for the storage of liquid petroleum, and the handling of liquid petroleum within the City limits will comply with the rules and regulations of the Iowa State Fire Marshal, and no additional liquid petroleum storage tanks may be erected within the City unless prior approval is obtained from the Iowa State Fire Marshal.
7. Special Requirements.
  - A. All uses shall provide at least one loading space for each 10,000 square feet of floor area.
8. Special Exception Uses and Structures. The Board of Adjustment may permit the following:
  - A. Stockyards, rendering works, loading pens, buying stations and/or sale barns and yards, provided that: (i) any such use is not closer than ¼ mile to any dwelling unit other than that of the owner or operator, or any park,



school, church or place of public assembly; (ii) the provisions for drainage, sanitation, waste disposal and fly control are approved by the City Health Officer; (iii) that such use is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; and (iv) one parking space for each employee and one space for each vehicle used by the industry is provided.

B. Poultry processing plants, provided that: (i) the provision for drainage, sanitation, waste disposal, and fly control are approved by the City Health Officer; (ii) such use is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; and (iii) one parking space for each employee and one space for each vehicle used by the industry be provided.

C. Sanitary landfill or waste disposal area, provided that: (i) the same is not used for disposal of dead animals; (ii) refuse shall be covered with dirt daily if it contains raw garbage; (iii) a nuisance due to smoke, odor or blowing of trash and debris shall not be created; and (iv) the site shall be restored to a condition compatible with the adjacent area upon conclusion of the dump operation. An access road having at least a graveled surface and five parking spaces shall be provided. No landfill or waste disposal area shall be located closer than ¼ mile to any dwelling, park, school, or place of public assembly.

D. Auto wrecking and junkyards on sites of two acres or more, provided that: (i) a front yard be maintained as an open space free of weeds and debris; and (ii) no open burning of waste or discarded materials shall be conducted on the site.

[The next page is 955]

**165.19 BOARD OF ADJUSTMENT.**

1. Established. A Board of Adjustment is hereby established.
2. Members. The Board of Adjustment shall consist of five (5) members who are citizens of the City, appointed by the Mayor, subject to confirmation of the City Council.
3. Term. The term of office of the members is three (3) years.
4. Vacancies. If any vacancy exists on the Board caused by a resignation or otherwise, the Mayor shall appoint a successor for the residue of the term, subject to the approval of the City Council.
5. Compensation. All members of the Board will serve without compensation except their actual expenses, which shall be subject to the approval of the Council.
6. Duties and Powers. The duties and powers of the Board of Adjustment are as follows:
  - A. Interpret the district boundaries.
  - B. Adopt rules of procedure.
  - C. Maintain complete and accurate records of all proceedings.
  - D. Publish notice of all hearings or appeals.
  - E. Hear and decide appeals where there is alleged to be an error in any action or decision of the Administrative or Zoning Officer.
  - F. Grant special exceptions specifically enumerated under this chapter and in schedules of district regulations.
  - G. Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.
  - H. Classify commercial and industrial uses not specifically tested in this chapter.
  - I. The Board of Adjustment may issue a permit for the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter, provided that such use is of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.
7. Rules of Procedure.
  - A. The Board of Adjustment shall choose annually at its first regular meeting one of its members to serve as Chairperson of the Board.
  - B. There shall be a fixed place of meeting and all meetings will be open to the public.

C. The presence of three (3) members is necessary to constitute a quorum. The concurring vote of three members shall be necessary on all matters upon which it is required to pass under the provisions of this chapter.

D. The Board shall appoint a Secretary from its members, who shall keep minutes of its proceedings, showing the vote of each member upon each question. If a member is absent or fails to vote, the minutes shall indicate such fact. The Board shall keep records of its examinations and other official actions, which shall be on file in the office of the City Clerk as a public record.

E. On all appeals, applications, and other matters brought before the Board, the Board shall inform, in writing, all the parties involved of its decisions, and the reasons therefor.

8. Appeals, Hearings and Notices. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department or bureau of the City affected by any decisions of the Administrative or Zoning Officer and shall be taken by filing with the Administrative or Zoning Officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative or Zoning Officer shall transmit to the Board all papers constituting the record upon which the action appealed from was taken. Upon receipt of the notice of appeal, the Board shall hold a public hearing on the appeal and shall publish notice of the hearing in a newspaper of general circulation in the City. The notice shall specify the time, place, and purpose of the public hearing and the hearing shall not be less than seven (7) days or more than twenty (20) days after the publication of the notice. The Board shall also direct the City Clerk to give prompt notice of the hearing to citizens living within 200 feet of the affected property. The Board shall also give notice of such hearing to the Administrative or Zoning Officer. The final disposition of any appeal after public hearing shall be in the form of a resolution by the Board and a copy of such resolution shall be filed with the City Clerk. Following the hearing, the Board makes its decision. If it grants the variance, the Administrative or Zoning Officer must issue a permit. If the Board denies the variance, the applicant must comply with this chapter. The decision of the Board may be appealed to the courts by the Administrative or Zoning Officer, the applicant, or any person aggrieved by the decision.

**165.20 APPLICATION FORMS.** The following suggested application forms, hearing notices, and other documents that may be used in administering the Zoning Ordinance and Subdivision Regulations are contained in the Appendix to this Code of Ordinances:

1. Request for Amendment to Zoning Ordinance
2. Notice to Adjoining Property Owners
3. Action Taken on Zoning Request by Planning and Zoning Commission
4. Action Taken on Zoning Request by City Council
5. Variance Application
6. Action Taken on Application for Special Exception to or Variance from Zoning Ordinance Requirements
7. Application for Building Permit
8. Sign Permit Application

<b>EDITOR'S NOTE</b>			
All zoning map ordinances adopted prior to October 19, 1998, and the following ordinances amending the Official Zoning Map described in Section 165.07 of this chapter have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.			
<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>
215	October 19, 1998		
224	August 20, 2001		
231	April 21, 2003		
240	August 4, 2003		
248	November 1, 2004		
333	April 1, 2013		

[The next page is 975]

## CHAPTER 170

# SUBDIVISION REGULATIONS

170.01 Definitions	170.12 Professional Assistance
170.02 Jurisdiction	170.13 Required Information – Preliminary Plats
170.03 Fees	170.14 Required Information – Final Plats
170.04 Exceptions	170.15 Minor Subdivision Requirements
170.05 Restrictions Generally; Penalty for Noncompliance	170.16 Minor Subdivision Procedures
170.06 Amendments	170.17 Design Standards – Streets
170.07 Zoning for Subdivision	170.18 Design Standards – Blocks
170.08 Preliminary Plats	170.19 Design Standards – Lots
170.09 Final Plats	170.20 Required Improvements
170.10 Subdivisions Within Two Miles of the City	170.21 Specification Standards
170.11 Plats Outside Corporate Limits	170.22 Inspection

**170.01 DEFINITIONS.** For the purpose of this chapter, certain terms and words are defined in this section.

1. “Alley” means a permanent public service way or right-of-way designed to provide a secondary means of access to abutting property.
2. “Auditor” means the County Auditor of the county in which the subdivision is a part.
3. “Building line” means a line established on a plat as a restrictive covenant, beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirements established in the zoning ordinance, and where they do not, the most restrictive requirement will control.
4. “Commission” means the Planning and Zoning Commission of the City.
5. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
6. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said owner’s property.
7. “Final plat” means the map or drawing on which the subdivision plan is presented in the form that, if approved by the Council and Commission, will be filed and recorded with the County Recorder.
8. “Preliminary plat” means a study of drawings indicating the proposed manner or layout of the subdivision and which is submitted to the Council and Commission for consideration.
9. “Right-of-way” means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.
10. “Separate tract” means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of the ordinance codified in this chapter.
11. “Street” means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway,

thoroughfare, parkway, avenue, road, lane, drive, place, or other appropriate designation.

12. “Street, collector” means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.

13. “Street, minor residential” means a cul-de-sac or loop street designed to serve no more than 20 dwellings.

14. “Street, residential” means a street used primarily for access to abutting property.

15. “Subdivider” means any person, firm, corporation, partnership, or association that lays out, for the purpose of sale or development, any subdivision or part thereof, as defined herein, either for said person or others.

16. “Subdivision” means:

A. “Major subdivision” means the division of a separate tract of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development or, if a new street is involved, any division of a parcel of land.

B. “Minor subdivision” means any subdivision that creates not more than two (2) lots fronting an existing road, not involving any new road or street or the extension of municipal facilities or the creation of any improvements or the dedication of lands to the City, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision of the Comprehensive Plan, Zoning Ordinance, or this chapter, and meets the appropriate use of this chapter.

“Subdivision” also means the division of any parcel or lot from any existing parcel or lot, except if it qualifies for a minor subdivision, it must be reviewed by the Commission to check if it qualifies as a subdivision.

17. “Thoroughfare” means a street intended for cross-county or through traffic.

**170.02 JURISDICTION.** All plats, re-plats, or subdivisions of land into two or more parts for the purpose of laying out a portion of the City, addition thereto, or, pursuant to Section 354.9 of the *Code of Iowa*, within two (2) miles of the corporate limits of the City for other than agricultural purposes shall be submitted to the Council and Commission in accordance with the provisions of this chapter and shall be subject to the requirements established in this chapter.

**170.03 FEES.** Each preliminary plat submitted for approval shall be accompanied by a fee of \$10.00, which shall be credited to the General Fund of the City.

**170.04 EXCEPTIONS.** Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.



**170.05 RESTRICTIONS GENERALLY; PENALTY FOR NONCOMPLIANCE.** In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall not be violated, subject to the following:

1. No plat or subdivision in the City or within two miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the City Council as prescribed in this chapter.
2. Not more than two building permits shall be issued for each separate tract existing at the effective date of this chapter unless the tract shall have been platted in accordance with the provisions contained in this chapter.
3. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has subdivided after the date of adoption of the ordinance codified in this chapter unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the City Council as a public street.
4. Any person who disposes of or offers for sale or lease any lots in the City or addition thereto unless the plat thereof has been approved in accordance with this chapter and recorded shall forfeit and pay \$50.00 for each lot or part of lot sold or disposed of, leased, or offered for sale.

**170.06 AMENDMENTS.** This chapter may be amended from time to time by the City Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within 30 days, after which the Council shall give notice of and hold a public bearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

**170.07 ZONING FOR SUBDIVISION.** Any property for subdivision shall be correctly zoned to accommodate the proposed uses before the subdivision process is begun.

**170.08 PRELIMINARY PLATS.**

1. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat of the proposed subdivision to be prepared containing the information specified in this chapter and shall file three copies, one of which is drawn to scale as required by chapter.
2. The Clerk shall immediately transmit two copies of the preliminary plat to the Commission for study and recommendation.
3. The Commission shall examine the plat as to its compliance with this chapter and the comprehensive plan of the City, and shall have 30 days in which to submit a recommendation to the Council; provided, the owner or developer may agree to an extension of time, not to exceed 60 days. A copy of the recommendation shall be forwarded to the owner or developer.
4. The Council, upon receipt of the Commission's recommendation or after 30 days or any extension thereof has passed, shall, by resolution, grant approval of or reject the preliminary plat. If the plat is rejected, the Council will advise the owner or developer of any changes that are desired or should have consideration before

approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat but shall not be deemed approval of the subdivision.

**170.09 FINAL PLATS.**

1. A final plat shall be submitted within 12 months of the approval of the preliminary plat, or such approval shall expire, and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.
2. Procedures for final plats shall be the same as set out for preliminary plats in Section 170.08.
3. Upon approval of the final plat, a certification of approval shall be signed by the Mayor and attested to by the Clerk, and copies of the same shall be filed with the City Clerk, County Auditor, and County Recorder, along with such other certifications and instruments as may be required by law.

**170.10 SUBDIVISIONS WITHIN TWO MILES OF THE CITY.** Any subdivision within two miles of the City is subject to the review and approval of the City, as allowed and prescribed by Section 354.9 of the *Code of Iowa*.

**170.11 PLATS OUTSIDE CORPORATE LIMITS.** Procedures for approval of preliminary and final plats of land within two miles of the corporate limits shall be the same as set out in Sections 170.08 and 170.09, except that five copies of the plat shall be filed with the City Clerk, and the City Clerk shall refer one copy to the County Engineer and one copy to the County Planning and Zoning Commission and request their recommendations to be submitted to the City Planning and Zoning Commission. The Commission shall not take action on the plat prior to receiving the recommendation of the County.

**170.12 PROFESSIONAL ASSISTANCE.** The Council and the Commission may request such professional assistance as deemed necessary to properly evaluate the plat as submitted.

**170.13 REQUIRED INFORMATION – PRELIMINARY PLATS.** The preliminary plat shall contain the following information:

1. A location map showing the following:
  - A. The subdivision name;
  - B. An outline of the area to be subdivided;
  - C. The existing streets and public or community utilities, if any, on adjoining property;
  - D. North point and scale.
2. A preliminary plat of the subdivision drawn to scale of 50 feet to one inch; provided, if the resulting drawing would be over 36 inches in shortest dimension, a scale of 100 feet to one inch may be used. The preliminary plat shall show the following:
  - A. Legal description, acreage, and name of proposed subdivision;
  - B. Name and address of the owner;
  - C. Name of person who prepared the plat and the date thereof;

- D. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, watercourses, bridges, railroads, and buildings in the proposed subdivision;
- E. North point, scale, and date;
- F. Layout of lots showing approximate dimensions and numbers;
- G. Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas;
- H. A statement regarding the location and approximate size or capacity of utilities proposed to be installed;
- I. The location of wells and/or water mains and sewage disposal system if a public or community system is used;
- J. The drainage of the land including proposed storm sewers, ditches, culverts, bridges, and other structures;
- K. Contours at vertical intervals of not more than two feet;
- L. Layout blocks (if used) and lots including the dimensions of each, and the lot and block number in numerical order;
- M. Tract boundary lines showing dimensions, bearings, angels, and references to known lines or benchmarks;
- N. Names of adjacent property owners or subdivisions;
- O. Proposed building lines;
- P. A cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage, and other improvements to be installed.

**170.14 REQUIRED INFORMATION – FINAL PLATS.** The final plat for major and minor subdivisions shall contain the following information.

1. It may include all or only part of the preliminary plat.
2. The final plat shall be drawn to scale of 50 feet to one inch; provided, if the resulting drawing would be over 36 inches in shortest dimension, a scale of 100 feet to one inch may be used. The plat shall show the following:
  - A. Accurate boundary lines, with dimensions and angles that provide a survey of the tract, closing with an error of not more than one foot in 3,000 feet;
  - B. Accurate reference to known or permanent monuments, giving the bearing a distance from some corner of a congressional division of the County of which the subdivision is part;
  - C. Accurate metes and bounds description of boundary;
  - D. Accurate locations of all existing and recorded streets intersection the boundaries of the tract;
  - E. Name of the subdivision;
  - F. Name and address of owner and subdivider;

- G. North point, scale, and date;
  - H. Street names;
  - I. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to rights-of-way and lot lines;
  - J. Complete curve notes for all curves included in the plat;
  - K. Lot numbers and dimensions;
  - L. Block numbers, if used;
  - M. Accurate locations of easements for utilities and any limitations on such easements;
  - N. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use;
  - O. Building lines and dimensions;
  - P. Location, type, material, and size of all monuments and markers;
  - Q. Certification by registered land surveyor of the State of Iowa;
  - R. Certification of dedication of streets and other public property;
  - S. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.
3. The final plat shall be accompanied by the following instruments:
- A. 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.
  - B. One of the following:
    - (1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications.
    - (2) A surety bond with the City which will insure the City that the improvements will be completed by the subdivider or property owner within two years after the official acceptance of the plat. The form and type of bond shall be approved by the City Attorney, and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus ten percent, and the amount of the estimate must be approved by the Council.
    - (3) A petition by the developer to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the

assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

If option (2) or option (3) above is chosen, the final plat shall state that the developer, the grantees, assignees and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to the subdivision until the pavement is completed and accepted by the City.

C. Copy of restrictive covenants to be attached to the lots of the subdivision.

4. The final plat shall also be accompanied by the following at the time it is presented for filing with the County Auditor and County Recorder:

A. 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.

B. 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.

C. 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*.

D. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

#### **170.15 MINOR SUBDIVISION REQUIREMENTS.**

1. The owner shall prepare the proposed minor subdivision plat and shall submit five copies, one of which shall be full size and the remaining may be reduced in size, to the Zoning Administrator. Said plat shall contain such applicable information as required by this chapter.

2. The Zoning Administrator shall determine that the minor subdivision plat contains sufficient data and elements to furnish a basis for review, then the Zoning Administrator shall forward copies of the submitted plat to the City Engineer as appointed by Council and to such other agencies or persons as may be deemed appropriate and necessary.

3. Within ten working days following the receipt of an application by the Zoning Administrator:

- A. The City Engineer shall notify the Zoning Administrator that access onto the City street will or will not be granted and that other improvements do or do not conform to current standards.
  - B. The City Engineer and or Public Works personnel shall notify the Zoning Administrator that the land so proposed to be subdivided will comply with all applicable City standards, and that the proposed or existing system of water supply complies with applicable Sumner, Bremer County or Fayette County, and State of Iowa standards.
  - C. Other agencies or persons shall inform the Zoning Administrator on factors deemed appropriate and necessary.
- 4. Within 20 working days following the date of receipt of an application or such additional period as the owner may authorize, the Zoning Administrator may schedule a public hearing on the subdivision request with the City Council.
  - 5. The Council may approve or disapprove the subdivision request, or they may refer the request to the Planning and Zoning Commission for their recommendation prior to considering the minor plat. In the event that a minor subdivision plat is not approved, the City Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal, within 20 days, to District Court, the failure of the Council to issue final approval of the minor plat as provided in this chapter. If approved, the minor plat shall be certified by resolution and properly recorded by the City Clerk with the affected County.

This section shall not be applicable to a parcel of land of any size which has previously had a subdivision severed from it. For definition purposes of this section only, a parcel of land means any sized continuous piece of property under the same ownership as shown on the Bremer County/Fayette County Auditor's plat books as of effective date of this chapter.

**170.16 MINOR SUBDIVISION PROCEDURES.** The division of any lot or parcel of land classified by Zoning Administrator as a minor subdivision, as defined in this chapter, shall follow this procedure:

- 1. Check with the Zoning Administrator for current zoning ordinances, subdivision regulations, land use classifications, and other code applicability. The property must be correctly zoned before the subdivision will be considered by the City.
- 2. Check with Public Works Department for water and water pollution control standards.
- 3. Submit five copies of the plat, one of which shall be full size and the remaining may be reduced in size, to the Zoning Administrative, along with the minor subdivision application form and fee payment.
- 4. The plat will be reviewed by the following departments:
  - A. City Engineer as designated by the City Council.
  - B. Zoning Administrator.
  - C. Mayor and City Council.
  - D. Planning and Zoning Commission, if requested by the City Council.

5. Within ten days following submission of all information, all aforementioned departments will submit their findings to the City Council, who will either approve or disapprove the request.

#### **170.17 DESIGN STANDARDS – STREETS.**

1. General design criteria for streets are as follows:
  - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
  - B. Street jogs of less than 150 feet shall be avoided.
  - C. Intersection of road centerlines shall be between 80 degrees and 100 degrees.
  - D. Intersection of more than two streets at a point shall not be permitted.
  - E. Cul-de-sacs shall not exceed 500 feet in length.
  - F. No dead-end streets or alleys will be permitted except at subdivision boundaries where their future extension would serve adjoining parcels of land.
  - G. New subdivisions shall make provisions for the continuation and extension of thoroughfares and collector streets.
  - H. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof.
  - I. Where parkways or special types of streets are proposed, the Commission may apply special standards for the design of such parkways or streets.
  - J. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street.
  - K. Alleys shall not be permitted in residential areas but shall be provided in commercial and industrial areas.
2. Minimum rights-of-way shall be provided as follows:
  - A. Thoroughfares, 80 feet;
  - B. Collector streets, 70 feet;
  - C. Residential streets, 60 feet;
  - D. Minor residential streets, 50 feet;
  - E. Cul-de-sacs, 110 feet in diameter;
  - F. Alleys, 20 feet.
3. Minimum width of surfacing, including curbs, shall be provided as follows.
  - A. Thoroughfare streets, 45 feet;
  - B. Collector streets, 41 feet;
  - C. Residential streets, 31 feet;
  - D. Minor residential streets, 25 feet;
  - E. Cul-de-sacs, 85 feet in diameter;

- F. Alleys, 20 feet;
  - G. Sidewalks, 4 feet.
4. No street grade shall be less than one-half of one percent and shall not exceed the following limits:
- A. Thoroughfare streets, four percent;
  - B. Collector streets, six percent;
  - C. Residential and minor residential streets, eight percent.

**170.18 DESIGN STANDARDS – BLOCKS.**

1. The length of blocks shall be not less than 500 feet and not more than 1,000 feet in length.
2. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth and in no case shall the width be less than 220 feet, except that where a single tier of double-frontage lots parallels a limited-access highway, a thoroughfare, drainage course, railroad, or other barrier, the width shall be not less than 150 feet.
3. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out-of-distance travel. If required, they shall be constructed by the developer.

**170.19 DESIGN STANDARDS – LOTS.**

1. All lots shall abut on a street or place. Corner lots that abut on a thoroughfare or collector street shall have minimum radius of 15 feet at the intersection.
2. Side lines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide a better lot layout.
3. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.
4. Corner lots shall not be less than 80 feet in width, and interior lots shall be not less than 70 feet in width at the building lines.

**170.20 REQUIRED IMPROVEMENTS.**

1. Sanitary Sewers. The subdivider shall provide the subdivision with a complete sanitary sewer system, which shall connect with a sanitary sewer outlet approved by the City Council. The sewers shall extend to the subdivision boundaries as necessary to permit their extension by adjacent properties. Sewer mains shall be at least eight inches in diameter, and the main shall be embedded in eight inches of sand on the bottom of the main and at least 18 inches of sand shall be placed on the top of the main. Private service lines shall be at least four inches in diameter.
2. Water. The subdivider shall provide the subdivision with a complete water main supply system, which will provide a water connection for each lot and which shall extend to the subdivision boundaries as necessary to permit their extension by adjacent properties. Water mains shall be at least six inches in diameter and the main shall be embedded in eight inches of sand on the bottom of the main and at least 18



inches of sand shall be placed on top of the main. Hydrants shall be to City specifications as deemed by the Council and the Public Works Director. Gate valves shall be to City specifications deemed by the Council and the Public Works Director.

3. Storm Drains. The subdivider shall provide the subdivision with storm sewers, intakes, and manholes to adequately provide for the collection and removal of all surface waters. These improvements shall extend to the subdivision boundaries so as to provide for extension by adjoining properties.

4. Electric Service and Street Lighting.

A. The City's utility (Sumner Municipal Light Plant or agent of Sumner Municipal Light Plant) shall extend electric service to the subdivision and make electric service available to each lot in the subdivision. In residential subdivisions, all electric lines, including individual service lines installed by the owner or developer, shall be placed underground. The cost of the line extensions is the responsibility of the owner and/or developer.

B. The City shall provide the subdivision with a complete street lighting system. Street lighting fixtures shall be mounted on standards, the design of which has been approved by the Planning Commission, and shall be served by underground wiring.

5. Sidewalks. The subdivider shall provide a four-foot-wide concrete sidewalk along each lot frontage.

6. Markers. An iron rod not less than one-half inch in diameter and 24 inches in length shall be set in concrete three feet deep at the intersection of all lines forming angles in the boundary of the subdivision and at all street intersections.

7. Grading. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the City Council.

8. Curbs and Gutters. Curbs and gutters shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the City Council.

9. Curbs, Gutters, and Surfacing. All streets being dedicated for public use shall be constructed from back of curb to back of curb as one unit. Surfacing shall consist of Portland cement concrete paving with a minimum of 4,000 PSI of minimum six-inch thickness with a four-inch crown centerline of street to gutter and shall be constructed in accordance with designs and specifications and at grades approved by the City Council. All construction and materials shall conform to the current Iowa Department of Transportation standard specifications and special provisions.

**170.21 SPECIFICATION STANDARDS.** The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the City Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

**170.22 INSPECTION.** The City Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of this chapter. The cost of inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

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# **CODE OF ORDINANCES CITY OF SUMNER, IOWA**

## **TABLE OF CONTENTS**

### **GENERAL CODE PROVISIONS**

<b>CHAPTER 1 - CODE OF ORDINANCES.....</b>	<b>1</b>
<b>CHAPTER 2 - CHARTER.....</b>	<b>9</b>
<b>CHAPTER 3 - MUNICIPAL INFRACTIONS .....</b>	<b>11</b>
<b>CHAPTER 5 - OPERATING PROCEDURES .....</b>	<b>21</b>
<b>CHAPTER 6 - CITY ELECTIONS .....</b>	<b>29</b>
<b>CHAPTER 7 - FISCAL MANAGEMENT .....</b>	<b>35</b>
<b>CHAPTER 8 - URBAN RENEWAL.....</b>	<b>45</b>
<b>CHAPTER 9 - URBAN REVITALIZATION .....</b>	<b>47</b>

### **ADMINISTRATION, BOARDS AND COMMISSIONS**

<b>CHAPTER 15 - MAYOR.....</b>	<b>71</b>
<b>CHAPTER 16 - MAYOR PRO TEM.....</b>	<b>75</b>
<b>CHAPTER 17 - CITY COUNCIL.....</b>	<b>77</b>
<b>CHAPTER 18 - CITY CLERK .....</b>	<b>83</b>
<b>CHAPTER 19 - CITY TREASURER .....</b>	<b>87</b>
<b>CHAPTER 20 - CITY ATTORNEY .....</b>	<b>89</b>
<b>CHAPTER 21 - LIBRARY BOARD OF TRUSTEES.....</b>	<b>91</b>
<b>CHAPTER 22 - PLANNING AND ZONING COMMISSION.....</b>	<b>99</b>
<b>CHAPTER 23 - PARK COMMISSION .....</b>	<b>101</b>
<b>CHAPTER 24 - ELECTRIC UTILITY BOARD OF TRUSTEES .....</b>	<b>105</b>
<b>CHAPTER 25 - AQUATIC CENTER BOARD.....</b>	<b>109</b>

# TABLE OF CONTENTS

## POLICE, FIRE AND EMERGENCIES

CHAPTER 30 - POLICE DEPARTMENT .....	145
CHAPTER 35 - FIRE DEPARTMENT .....	151
CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS .....	155

## PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	185
CHAPTER 41 - PUBLIC HEALTH AND SAFETY .....	193
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY .....	201
CHAPTER 43 - DRUG PARAPHERNALIA.....	211
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	225
CHAPTER 46 - MINORS.....	227

## NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	245
CHAPTER 51 - JUNK AND JUNK VEHICLES .....	255
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL .....	275
CHAPTER 56 - VICIOUS ANIMALS .....	283

## TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE .....	301
CHAPTER 61 - TRAFFIC CONTROL DEVICES.....	305
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	307
CHAPTER 63 - SPEED REGULATIONS .....	321
CHAPTER 64 - TURNING REGULATIONS .....	325
CHAPTER 65 - STOP OR YIELD REQUIRED .....	327
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS .....	345

# TABLE OF CONTENTS

## TRAFFIC AND VEHICLES (continued)

CHAPTER 67 - PEDESTRIANS.....	347
CHAPTER 68 - ONE-WAY TRAFFIC .....	349
CHAPTER 69 - PARKING REGULATIONS .....	351
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES.....	371
CHAPTER 75 - ALL-TERRAIN VEHICLES AND SNOWMOBILES .....	381
CHAPTER 76 - BICYCLE REGULATIONS .....	385
CHAPTER 77 - GOLF CARTS.....	387
CHAPTER 80 - ABANDONED VEHICLES .....	401

## WATER

CHAPTER 90 - WATER SERVICE SYSTEM .....	425
CHAPTER 91 - WATER METERS.....	431
CHAPTER 92 - WATER RATES .....	435

## SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	451
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	465
CHAPTER 97 - USE OF PUBLIC SEWERS.....	473
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS .....	483
CHAPTER 99 - SEWER SERVICE CHARGES.....	485
CHAPTER 100 - STORM WATER MANAGEMENT .....	501

## GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL.....	525
CHAPTER 106 - COLLECTION OF SOLID WASTE .....	531

# TABLE OF CONTENTS

## FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE .....	551
CHAPTER 111 - CEMETERY .....	561

## REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS .....	641
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	645
CHAPTER 122 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS.....	649
CHAPTER 123 - HOUSE MOVERS.....	655
CHAPTER 124 - JUNK DEALERS AND JUNK YARDS.....	659

## STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE.....	685
CHAPTER 136 - SIDEWALK REGULATIONS.....	693
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....	699
CHAPTER 138 - STREET GRADES.....	701
CHAPTER 139 - NAMING OF STREETS.....	703
CHAPTER 140 - CONTROLLED ACCESS FACILITIES .....	705

## BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS.....	725
CHAPTER 146 - MANUFACTURED AND MOBILE HOMES .....	729
CHAPTER 147 - BUILDING PERMITS .....	735
CHAPTER 150 - BUILDING NUMBERING .....	751
CHAPTER 151 - TREES .....	753
CHAPTER 160 - FLOOD PLAIN MANAGEMENT.....	775

# TABLE OF CONTENTS

## ZONING AND SUBDIVISION

CHAPTER 165 - ZONING REGULATIONS .....	801
--	-----

CHAPTER 170 - SUBDIVISION REGULATIONS.....	975
--	-----

## INDEX

### APPENDIX:

USE AND MAINTENANCE OF THE CODE OF ORDINANCES .....	1
---	---

### SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE .....	7
DANGEROUS BUILDINGS - NOTICE OF HEARING .....	8
DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....	9

NOTICE TO ABATE NUISANCE .....	10
--------------------------------	----

NOTICE OF REQUIRED SEWER CONNECTION.....	11
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION .....	12
RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION .....	13
RIGHT TO WORK PERMIT .....	15
SEWER CONNECTION AND INSPECTION PERMIT .....	16

REQUEST FOR AMENDMENT TO THE ZONING ORDINANCE .....	17
NOTICE TO ADJOINING PROPERTY OWNERS.....	18
PLANNING AND ZONING COMMISSION ACTION TAKEN ON ZONING REQUEST .....	19
CITY COUNCIL ACTION TAKEN ON ZONING REQUEST .....	20

VARIANCE APPLICATION.....	21
ACTION TAKEN ON APPLICATION FOR SPECIAL EXCEPTION TO OR VARIANCE FROM ZONING ORDINANCE REQUIREMENTS .....	23

BUILDING PERMIT APPLICATION .....	24
SIGN PERMIT APPLICATION.....	25

# APPENDIX TO CODE OF ORDINANCES

## USE AND MAINTENANCE OF THE CODE OF ORDINANCES

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The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

### DISTRIBUTION OF COPIES

**1. OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

**2. DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

**3. SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

**4. RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

*(Code of Iowa, Sec. 372.13[4])*

### NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.



## **RETENTION OF AMENDING ORDINANCES**

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

## **SUPPLEMENT RECORD**

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

## **DISTRIBUTION OF SUPPLEMENTS**

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

## **AMENDING THE CODE OF ORDINANCES**

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

*(Code of Iowa, Sec. 380.2)*

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

## **ADDITION OF NEW PROVISIONS**

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SUMNER, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of Sumner, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Sumner, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SUMNER, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of Sumner, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Sumner, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No.\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SUMNER, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Sumner, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Sumner, Iowa, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars (\$10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

ORDINANCES NOT CONTAINED IN THE  
CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. \_\_\_\_

AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO  
(2) RAILROAD ADDITION TO SUMNER, IOWA

Be It Enacted by the City Council of the City of Sumner, Iowa:

**SECTION 1.** The alley lying in Block Two (2), Railroad Addition to Sumner, Iowa, is hereby vacated and closed from public use.

**SECTION 2.** The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

**SECTION 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

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FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within \_\_\_\_ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: \_\_\_\_\_

City of Sumner, 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 Sumner, 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 Sumner, 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 Sumner, Iowa

By: \_\_\_\_\_  
(enforcement officer)

**RESOLUTION AND ORDER  
REGARDING DANGEROUS BUILDING**

**BE IT RESOLVED**, by the City Council of the City of Sumner, 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 Sumner, Iowa

By: \_\_\_\_\_  
(designate officer initiating notice)

## REQUIRED SEWER CONNECTION

## REQUIRED SEWER CONNECTION

**RESOLUTION AND ORDER**  
**REQUIRED SEWER CONNECTION**

**BE IT RESOLVED**, by the City Council of the City of Sumner, Iowa:

**WHEREAS**, notice has heretofore been served on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on  
\_\_\_\_\_  
(Name of Property Owner)  
through \_\_\_\_\_, Agent,  
(Agent’s Name or “None”)

to make connection of the property described as  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to the public sanitary sewer located \_\_\_\_\_  
within \_\_\_\_\_ (\_\_\_\_\_) days from service of notice upon said owner or agent; and

(EITHER)

**WHEREAS**, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council;

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

**WHEREAS**, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon;

**NOW, THEREFORE, BE IT RESOLVED** that the owner of said property, or said owner’s agent, \_\_\_\_\_  
(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within \_\_\_\_\_ days after the service of this ORDER upon said owner or agent; and

**BE IT FURTHER RESOLVED** that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above; and

**BE IT FURTHER RESOLVED**, that in the event the owner, or agent,  
\_\_\_\_\_,  
(Name of Owner or Agent)  
fails to make such connection within the time prescribed above, then and in that event the City  
will make such connection and the cost thereof will be assessed against the property and/or  
owner  
\_\_\_\_\_  
(Owner's Name)  
\_\_\_\_\_, as provided by law.  
(Address)

Moved by \_\_\_\_\_ to adopt.  
Seconded by \_\_\_\_\_.  
AYES: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_,  
NAYS: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_.

Resolution approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF SUMNER, IOWA

RIGHT TO WORK PERMIT

Any person engaged in installation of private water or sewer lines and appurtenances must obtain a permit from the City of Sumner City Clerk. Permit fee is \$25.00 and is good for one year.

Each applicant must sign this form agreeing to pay the City of Sumner the actual cost of repair for any damages caused to the water distribution, wastewater collection system or other city owned utilities by the applicant or any of said applicant's agents.

Proof of insurance certificate must accompany permit application showing public liability insurance coverage with limits of at least.

- \$250,000 per person
- \$500,000 per occurrence
- \$10,000 for property damage

Certificate shall specifically state that said policy covers underground operations and date of expiration.

This signature confirms that the above policy has been read and understood by said applicant.

Company Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

Phone:

\_\_\_\_\_

Authorized Company Representative Signature

\_\_\_\_\_

## CITY OF SUMNER, IOWA

## SEWER CONNECTION AND INSPECTION PERMIT

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Property Description: \_\_\_\_\_

Connection Fee Paid: Yes ☐ No ☐ \_\_\_\_\_

Contractor: \_\_\_\_\_

Excavation Fee Paid: Yes ☐ No ☐ \_\_\_\_\_

Proof of Insurance: \_\_\_\_\_

State Plumbing License #: \_\_\_\_\_

**Site Inspection and Report by WW Superintendent**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Materials: \_\_\_\_\_

Footage: \_\_\_\_\_

Tap Location: \_\_\_\_\_

Footing Tile and Sump Pump \_\_\_\_\_

Clean Out/Backflow Valve: \_\_\_\_\_

Approved: Yes ☐ No ☐ \_\_\_\_\_

Notes:

CITY OF SUMNER, IOWA

REQUEST FOR AMENDMENT TO THE ZONING ORDINANCE

DATE: \_\_\_\_\_

Applicant \_\_\_\_\_

Address \_\_\_\_\_

Phone No. \_\_\_\_\_

I hereby request a Zoning Ordinance amendment to:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

the following described premises: \_\_\_\_\_

\_\_\_\_\_

PROPERTY DESCRIPTION (Measurements): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Present Zoning Classification: \_\_\_\_\_

Proposed Zoning Classification: \_\_\_\_\_

Improvement or Use Proposed \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Applicant's Signature)



CITY OF SUMNER, IOWA

NOTICE TO ADJOINING PROPERTY OWNERS

Date: \_\_\_\_\_

The Planning and Zoning Commission of Sumner, Iowa, wishes to inform you that there has been a petition for a change in the zoning regulations, as applied to the property described as:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The petition requests a change in zoning from the \_\_\_\_\_ District to the \_\_\_\_\_ District.

A public hearing will be held by the Sumner City Council on \_\_\_\_\_, 20\_\_\_\_, at which time you may appear if you so desire, either in person or by agent or attorney, in opposition to or support of the proposed change of zoning.

The hearing of this appeal is not limited to those receiving copies of this notice, and if you know of any neighbor or affected property owner who, for any reason, has not received a copy, it would be appreciated if you would inform said person of this public hearing.

Respectfully submitted,  
Planning and Zoning Commission

\_\_\_\_\_  
Chairperson

CITY OF SUMNER, IOWA

PLANNING AND ZONING COMMISSION  
ACTION TAKEN ON ZONING REQUEST

The Planning and Zoning Commission has reviewed the foregoing application and hereby recommends to the City Council that the request be

☐ APPROVED

☐ DENIED.

Reasons for Approval or Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Acted upon this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chairperson  
Planning and Zoning Commission

**CITY OF SUMNER, IOWA**  
**CITY COUNCIL**  
**ACTION TAKEN ON ZONING REQUEST**

The City Council of Sumner, Iowa, has reviewed the foregoing application and recommendations and hereby

☐ GRANTS THE REQUEST

☐ DENIES THE REQUEST

Acted upon this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor  
City of Sumner, Iowa

Attest:

\_\_\_\_\_  
City Clerk  
City of Sumner, Iowa

VARIANCE APPLICATION

GENERAL INFORMATION:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Name of Owner, if different: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_

DATE OFFICE RECEIVED APPLICATION: \_\_\_\_\_

FEE: The nonrefundable fee for having a variance application considered is \$30.00. Under no circumstances shall all or part of this fee be refunded to the applicant.

Fee Received: ☐ Cash ☐ Check

SITE SPECIFICS:

Location of Property: \_\_\_\_\_  
Legal Description of Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please provide and attached the following:

- \_\_\_\_\_ Site Plan
- \_\_\_\_\_ Aerial photo if available
- \_\_\_\_\_ Copy of denied building permit

REQUEST SPECIFICS:

Current Zoning Designation: \_\_\_\_\_  
Existing Use of Property: \_\_\_\_\_  
Proposed Variance: (Cite Code of Ordinances section, required standard, and variance that you are requesting.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reason for Your Variance Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* \* \* \* \*

ANY CONDITIONS PLACED ON THE VARIANCE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_  
Chairman, Board of Adjustment

Variance Application, Page 2

(Please remember that in asking for a variance, you are requesting that you be allowed to do something that is contrary to the Sumner Code of Ordinances. Therefore, the Board of Adjustment must look at five areas to justify the granting of the variance. Those areas are: (1) What makes this situation unique?; (2) Is the request contrary to public interest?; (3) Is the request in harmony with the Comprehensive Plan and the Zoning Ordinance?; (4) Does an unnecessary hardship exist if the variance is not granted?; and (5) Is the hardship made by the owner or the situation? If you can address some of these issues in the above questions, the Board of Adjustment will be better able to consider your variance request.)

After you make application for a variance, a meeting time will be set by the Board of Adjustment. Notice of the meeting and public hearing will be published in the paper and the notice must be published not less than 7 days or more than 20 days before the hearing. Property owners within 200 feet of your property will also be notified of the public hearing. A public hearing will be held on your variance request and public input will be taken regarding the variance. In order to address any questions or issues that may arise during this process, it is strongly suggested that the applicant be present at the meeting. Unanswered questions or unresolved issues caused by the absence of the applicant may cause the application to be rejected.

\* \* \* \* \*

ACKNOWLEDGEMENT OF THE APPLICANT:

I/We understand this application, and that it, with required attachments, constitutes our entire request and that a decision shall be made based on the Comprehensive Plan and City ordinances, this application, and public input. I/We certify that the information we have provided to the Zoning Administrator, Planning and Zoning Commission, and the Board of Adjustment is complete, accurate, and true to the best of our knowledge. Any intentional falsification or change in the information contained in this application (or to the attached information) shall cause this application to become null and void, the nonrefundable fee to be forfeited, and any approved variance to be revoked. We understand that if the variance is granted, the effective date of the variance is one year from date of approval.

\_\_\_\_\_

Applicant Signature

Date: \_\_\_\_\_

\* \* \* \* \*

ACTION TAKEN BY BOARD OF ADJUSTMENT:

VARIANCE                      ☐ DENIED                      ☐ GRANTED

REASON FOR DENIAL \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CITY OF SUMNER, IOWA

BOARD OF ADJUSTMENT ACTION TAKEN ON APPLICATION  
FOR SPECIAL EXCEPTION TO OR VARIANCE FROM  
ZONING ORDINANCE REQUIREMENTS

The Board of Adjustment has reviewed the foregoing application and hereby

☐ GRANTS ☐ DENIES  
the request.

Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Approved  
☐ Denied      this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chairperson  
Board of Adjustment

CITY OF SUMNER, IOWA

BUILDING PERMIT APPLICATION

Applicant:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Phone \_\_\_\_\_

Owner (if different from applicant):  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Phone \_\_\_\_\_

Street Address of Proposed Project: \_\_\_\_\_  
Zoning District of Proposed Project: \_\_\_\_\_  
Intended Use of Proposed Project: \_\_\_\_\_

Dimensions:  
Width \_\_\_\_\_ Length \_\_\_\_\_ Eave Height \_\_\_\_\_ Peak Height \_\_\_\_\_

Type of Construction: \_\_\_\_\_  
Type of Siding: \_\_\_\_\_ Type of Roof \_\_\_\_\_  
Gable Overhang \_\_\_\_\_ Eave Overhang \_\_\_\_\_

Type of Foundation (circle one):  
Frost Foundation      Trench Footing      Wooden Foundation      Floating Slab

Are there any utility easements on the property:    ☐ YES      ☐ NO

Estimated project start date: \_\_\_\_\_

Estimated cost of proposed project: \$ \_\_\_\_\_

*On a separate piece of paper, draw a sketch of the lot, showing lot lines, existing buildings, and the proposed project. Show distances that the existing and proposed buildings are from the lot lines. Be sure to include all necessary dimensions.*

\* \* \* \* \*

I hereby certify that the above information is true and that if the proposed project is approved it will be built according to the above specifications. I further certify that this project will be built in accordance with the Sumner Code of Ordinances.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Owner  
(if different from applicant)

\* \* \* \* \*

Building Permit    ☐ Approved      ☐ Denied  
Reason for Denial: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chairperson, Planning and Zoning Commission

**CITY OF SUMNER, IOWA**  
**SIGN PERMIT APPLICATION**

Building Address: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Owner: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

Type of Sign:

_____ Marquee	_____ Projection	_____ Roof	_____ Wall
_____ Ground	_____ Pedestal	_____ Billboard	_____ Electric
_____ Self-Illuminated	_____ Non-Electric	_____ Externally Illuminated	
_____ Permanent	_____ Temporary – number of days: _____		

Total Surface Area of Sign: \_\_\_\_\_ square feet

Materials:

Face: \_\_\_\_\_

Frame: \_\_\_\_\_

Support: \_\_\_\_\_

Overhanging or Projecting Signs:

Clearance Above Sidewalk: \_\_\_\_\_ feet

Projection From Building: \_\_\_\_\_ feet

Zoning District: \_\_\_\_\_

Value: \$\_\_\_\_\_

Permit Fee: \$\_\_\_\_\_

\* \* \* \* \*

Sign Application Permit ☐ APPROVED ☐ DENIED

Reason for Denial: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Chairperson, Planning and Zoning Commission