

# CHAPTER 1

## CODE OF ORDINANCES

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**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Urbana, Iowa, 2013.

**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 Urbana, Iowa.
3.     “Clerk” means the city clerk of Urbana, 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 Urbana, Iowa, 2013.
6.     “Council” means the city council of Urbana, Iowa.
7.     “County” means Benton 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 “Ordinances” means the ordinances of the City of Urbana, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. “Shall” imposes a duty.
16. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. “State” means the State of Iowa.
18. “Statutes” or “laws” means the latest edition of the Code of Iowa, as amended.
19. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

*(Code of Iowa, Sec. 364.1)*

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

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

*(Code of Iowa, Sec. 364.14)*

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

**1.07 EXTENSION OF AUTHORITY.** Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances,

the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

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

*(Code of Iowa, Sec. 380.2)*

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

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

*(Code of Iowa, Sec. 718.5)*

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

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

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

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

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

*(Code of Iowa, Sec. 364.3[2])*

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## CHAPTER 2

### CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

2.04 Number and Term of Council  
2.05 Term of Mayor  
2.06 Copies on File

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

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

*(Code of Iowa, Sec. 372.4)*

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

**2.04 NUMBER AND TERM OF COUNCIL.** The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

#### EDITOR'S NOTE

Ordinance No. 25 adopting a charter for the City was passed and approved by the Council on January 17, 1974.

CHAPTER 2

CHARTER

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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 Criminal Penalties**

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

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

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

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

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

**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.

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. 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 one copy 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.

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

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

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## CHAPTER 5

# OPERATING PROCEDURES

<b>5.01 Oaths</b>	<b>5.07 Conflict of Interest</b>
<b>5.02 Bonds</b>	<b>5.08 Resignations</b>
<b>5.03 Duties: General</b>	<b>5.09 Removal of Appointed Officers and Employees</b>
<b>5.04 Books and Records</b>	<b>5.10 Vacancies</b>
<b>5.05 Transfer to Successor</b>	<b>5.11 Gifts</b>
<b>5.06 Meetings</b>	

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 22.2 & 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[1])*

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[2])*

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

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

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[5])*

5. **Newspaper.** The designation of an official newspaper.

*(Code of Iowa, Sec. 362.5[6])*

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[7])*

7. **Volunteers.** Contracts with volunteer fire fighters or civil defense volunteers.

*(Code of Iowa, Sec. 362.5[8])*

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[9])*

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

*(Code of Iowa, Sec. 362.5[4])*

10. **Cumulative Purchases.** Contracts not otherwise permitted by this section, for the purchase of goods or services which 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 (\$2500.00) in a fiscal year.

*(Code of Iowa, Sec. 362.5[11])*

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[12])*

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[13])*

**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)*

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## CHAPTER 6

### CITY ELECTIONS

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

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

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

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

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

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

*(Code of Iowa, Sec. 45.4)*

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

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

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## CHAPTER 7

# FISCAL MANAGEMENT

7.01 Purpose  
7.02 Finance Officer  
7.03 Cash Control  
7.04 Fund Control

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

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and

charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

4. Change Fund. The finance officer is authorized to draw a warrant/check on the Utility Fund for establishing a change fund for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the finance officer, who shall maintain the integrity of the fund.

**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 in the budget which it deems appropriate 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 City Clerk and have a copy posted at one of the places designated for the posting of notices.

*(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 the Council.

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

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

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

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

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

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

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December first 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)*

## **CHAPTER 8**

### **URBAN RENEWAL**

#### **EDITOR'S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted and provide for Urban Renewal Areas in the City and remain in full force and effect, for division of tax levied on taxable property.

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>NAME OF AREA</b>
243	October 26, 1992	Urbana Urban Renewal Area
258	December 8, 1994	1994 Addition to the Urbana Urban Renewal Area
341	May 5, 2003	2003 Addition to the Urbana Urban Renewal Area
399	January 11, 2012	2012 Addition to the Urbana Urban Renewal Area

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## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

**15.01 TERM OF OFFICE.** The Mayor is elected for a term of two (2) years.  
*(Code of Iowa, Sec. 376.2)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem

1. Police Chief (except that the appointment and dismissal of the Police Chief is subject to the consent of a majority of the Council)

2. Urbana Area Ambulance Service Board of Directors (with Council approval – appointee must be a sitting member of the City Council)

3. Urbana/Polk Township Fire Agency (with Council approval – appointee must be a sitting member of the City Council)

4. Tree Board (with Council approval)

5. Parks and Playgrounds Board (with Council approval)

6. Farmers' Market Board (with Council approval)

7. Library Board of Trustees (with Council approval)

8. Little League Board (with Council approval)

**15.04 COMPENSATION.** The salary of the Mayor is one hundred dollars (\$100.00) per month.

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

**15.05 VOTING.** The Mayor is not a member of the Council and shall not vote as a member of the Council.

*(Code of Iowa, Sec. 372.4)*

## CHAPTER 16

# MAJOR 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 Pro Tem is 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

# COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 NUMBER AND TERM OF COUNCIL.** The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 38.10)*

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

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

6. Setting Compensation for Elected Officers. By ordinance, the Council shall prescribe the compensation of the Mayor, Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the Council shall not adopt such an

ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of Council members becomes effective for all Council members at the beginning of the term of the Council members elected at the election next following the change in compensation.

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars (\$25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 380.4)*

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

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

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

*(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])*

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

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

**17.06 COMPENSATION.** The salary of each Council member is thirty dollars (\$30.00) for each meeting of the Council attended. “Attendance” is defined as (i) the presence of the Council member at the meeting for a minimum of one hour or (ii) the presence of the Council member at the meeting for at least one-half of the length of the meeting in instances when the entire length of the meeting is less than one hour. In the case of scheduled Council meetings at which a quorum is not present, those members who are present shall be paid the regular meeting salary, provided (a) the Council member appears prior to or within fifteen (15) minutes after the scheduled starting time of the meeting, and (b) the Council member remains present until fifteen (15) minutes past the scheduled starting time of the meeting.

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

## CHAPTER 18

### CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Clerk to serve at the pleasure of the Council, for an indefinite period unless a term is specified by the Council, and shall establish by resolution the Clerk's compensation.

*(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.** The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting 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 the Code of Ordinances or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days

before the date of the election, hearing or other action, unless otherwise provided by law.

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

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

Security State Bank – 205 North Union Avenue

United States Post Office – 305 West Wood Street

City Hall – 906 West Main Street

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

*(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 which by ordinance and Code of Ordinances are required to be attested by the affixing of the seal.

*(Code of Iowa, Sec. 372.13[4 & 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.** At the direction of the Council, the Clerk and Deputy Clerk shall attend meetings of committees, boards and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

**18.12 ELECTIONS.** The Clerk shall perform the following duties relating to elections and nominations:

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

*(Code of Iowa, Sec. 376.6)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

## CHAPTER 19

# CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer

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

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

**19.03 DUTIES OF TREASURER.** The duties of the Treasurer are as follows:

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

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

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## CHAPTER 20

### CITY ATTORNEY

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

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

**20.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council and shall establish by resolution the City Attorney's compensation.

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

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

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

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

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

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

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

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

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

**20.06 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 Clerk.

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

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

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

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

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

## CHAPTER 21

# PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission  
21.02 Term of Office  
21.03 Vacancies

21.04 Compensation  
21.05 Powers and Duties

**21.01 PLANNING AND ZONING COMMISSION.** There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, who shall be citizens and qualified by knowledge or experience to act in matters pertaining to the development of a City Plan and who shall not hold any elective office in the City government.

*(Code of Iowa, Sec. 414.6, 414.23 & 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

**21.03 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)*

**21.04 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)*

**21.05 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 of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

*(Code of Iowa, Sec. 392.1)*

7. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts,

donations or payments whatsoever which are received by the City for City planning and zoning purposes.

*(Code of Iowa, Sec. 392.1)*

8. 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)*

9. 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, disbursements and the progress of its work during the preceding fiscal year.

*(Code of Iowa, Sec. 392.1)*

10. Building and Other Permits. The Commission has delegated the review and approval of all applications for permits for the erection, addition to, structural alteration, location, use or moving of buildings, structures and mobile homes or other vehicles for living purposes, in the City, and the issuance of all permits related thereto, to the Building Inspector, provided the same comply with this Code of Ordinances, the rules and regulations of the City and other requirements of law. If it is deemed necessary, additional information and/or documentation related to the permit application may be requested prior to deciding on the application. The action of the Building Inspector shall be final subject to such appeal to the Board of Adjustment as may be authorized by the Zoning Ordinance. Copies of any action on an application for a permit and on an issued permit are sent to the Clerk's office and are available for review by the Commission.

11. Enforcement. The Commission and Building Inspector shall be responsible for enforcing the provisions of the Zoning Ordinance and any other ordinances relating to the erection, moving, alteration, location and use of buildings, structures and mobile home or other vehicles for living purposes, in the City, and shall report all violations to the Council for such action as the Council may deem appropriate.

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## **CHAPTER 22**

### **RESERVED**

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## CHAPTER 23

# PARKS AND PLAYGROUNDS BOARD

23.01 Parks and Playgrounds Board Established  
23.02 Organization  
23.03 Compensation

23.04 Duties  
23.05 Rules and Regulations

**23.01 PARKS AND PLAYGROUNDS BOARD ESTABLISHED.** There is hereby created and established a Parks and Playgrounds Board, which shall consist of five (5) members, including a Council liaison. The Board members shall be citizens and residents of the City, appointed by the Mayor with the approval of the Council.

**23.02 ORGANIZATION.** The members shall be appointed for a period of three (3) years. In the event that a vacancy occurs during the term of any member, the successor shall be appointed for the unexpired portion of the term.

**23.03 COMPENSATION.** Members of the Board shall serve without compensation.

**23.04 DUTIES.** It is the responsibility of the Parks and Playgrounds Board to study, investigate, counsel and develop and/or update annually and administer and implement a plan to improve the public facilities in the City Parks, and further, to create a playground and recreational areas as deemed necessary in such Parks. Such plans will be presented to the Council and upon their acceptance and approval shall constitute the official Parks and Playgrounds Plan for the City. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon special matters or questions coming within the scope of its work.

### 23.05 RULES AND REGULATIONS.

1. Selection of Officers. The Board shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Co-Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability. The Chairperson shall, as the need arises, have the authority to appoint individual project committees, whose membership may be comprised of Board and non-Board members. The length of appointment for non-Board members shall be the length of time necessary to complete the individual project to which they are assigned or until the Chairperson terminates their appointments.

2. Adopt Rules and Regulations. The Board shall adopt such rules and regulations governing its organization and procedures as it may deem necessary. As an appointed Board of the City, the members shall be required to post agendas at least 24 hours prior to their meetings, and shall submit copies of the minutes of their meetings to the Council for review. These rules and regulations shall also apply to any committee of the Parks and Playgrounds Board.
3. Fiscal Responsibilities. City Council approval shall be required for the Board to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which the City receives for Parks and Playgrounds purposes.
4. Annual Report. Each year the Board shall make a report to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

## CHAPTER 24

### FARMERS' MARKET BOARD

24.01 Urbana Farmers' Market Board Established  
24.02 Organization  
24.03 Compensation

24.04 Duties  
24.05 Rules and Regulations

**24.01 FARMERS' MARKET BOARD ESTABLISHED.** There is hereby created and established a Farmers' Market Board, which shall consist of five (5) members and a Council liaison. The Board members shall be appointed by the Mayor with the approval of the Council.

**24.02 ORGANIZATION.** The five (5) members shall be appointed for staggered terms – one member for a one-year term, two members for two-year terms, and two members for three-year terms. All terms thereafter shall be for a period of three years. In the event that a vacancy occurs during the term of any member, the successor shall be appointed for the unexpired portion of the term.

**24.03 COMPENSATION.** Members of the Board shall serve without compensation.

**24.04 DUTIES.** It is the responsibility of the Farmers' Market Board to study, investigate, update annually, and operate a Farmers' Market in the City. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon special matters or questions coming within the scope of its work.

#### 24.05 RULES AND REGULATIONS.

1. Selection of Officers. The Board shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Co-Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability. The Chairperson shall, as the need arises, have the authority to appoint individual project committees, whose membership may be comprised of Board and non-Board members. The length of appointment for non-Board members shall be the length of time necessary to complete the individual project to which they are assigned or until the Chairperson terminates their appointments.

2. Adopt Rules and Regulations. The Board shall adopt such rules and regulations governing its organization and procedures as it may

deem necessary. As an appointed Board of the City, the members shall be required to post agendas at least 24 hours prior to their meetings, and shall submit copies of the minutes of their meetings to the Council for review. These rules and regulations shall also apply to any committee of the Farmers' Market Board.

3. **Fiscal Responsibilities.** The Board shall have full, complete and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which the City receives for Farmers' Market purposes.

4. **Annual Report.** Each year the Board shall make a report to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

## CHAPTER 25

### LIBRARY BOARD OF TRUSTEES

25.01 Purpose	25.08 Nonresident Use
25.02 Public Library	25.09 Expenditures
25.03 Library Trustees	25.10 Annual Report
25.04 Qualifications of Trustees	25.11 Injury to Books or Property
25.05 Organization of the Board	25.12 Theft
25.06 Powers and Duties	25.13 Notice Posted
25.07 Contracting with Other Libraries	

**25.01 PURPOSE.** The purpose of this chapter is to provide for the establishment of a free public library for the City and for the creation and appointment of a City Library Board of Trustees, and to specify that Board's powers and duties.

**25.02 PUBLIC LIBRARY.** There is hereby established a free public library for the City, to be known as the Urbana Public Library.

**25.03 LIBRARY TRUSTEES.** The Board of Trustees of the Urbana Public Library, hereinafter referred to as the Board, consists of seven (7) members who shall be appointed for staggered terms. Three members shall be appointed for terms of six years; two members shall be appointed for four-year terms, and two for two-year terms. All Board members are to be appointed by the Mayor with the approval of the Council. A minimum of five (5) members of the Board shall be residents of the City. At the discretion of the Mayor and Council, the remaining two (2) members may reside outside the City limits but within Polk Township, or they may be additional residents of the City.

**25.04 QUALIFICATIONS OF TRUSTEES.** All resident members of the Board shall be bona fide citizens and residents of the City. The remaining members of the Board shall be bona fide citizens and residents of either the City or of the unincorporated area of Polk Township. All members shall be over the age of eighteen (18) years.

**25.05 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. A resident Trustee who moves from the City into the County may retain his or her position if there are nonresident positions available on the Board. The position of any Trustee shall be deemed vacated if such member is absent from three (3) consecutive regular meetings of the Board, or if such member is absent from more than four (4) regular meetings of the Board within a one-year period, 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.

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

1. Selection of Officers. To choose annually at its first regular meeting one of its members to act as Chairperson, another as Co-Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability, another as Secretary and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board. The Chairperson shall, as the need arises, have the authority to appoint individual project committees, whose membership may be comprised of Board and non-Board members. The length of appointment for non-Board members shall be the length of time necessary to complete the individual project to which they are assigned or until the Chairperson terminates their appointments.

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

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

4. Hiring of Personnel. To employ a librarian, and with the assistance of the librarian, to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty.

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

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor.

8. Adopt 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. As an appointed Board of the City, the members shall be required to post agendas at least 24 hours prior to their meetings, and shall submit copies of the minutes of their meetings to the Council for review. These rules and regulations shall also apply to any committee of the Library Board.

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.

**25.07 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 that is held in the territory of the party seeking to terminate the contract.

**25.08 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.

**25.09 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)*

**25.10 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.

**25.11 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)*

**25.12 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)*

**25.13 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)*

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## **CHAPTER 26**

### **RESERVED**

[The next page is 105]



## CHAPTER 30

# POLICE DEPARTMENT

30.01 Department Established	30.07 Police Chief: Duties
30.02 Organization	30.08 Departmental Rules
30.03 Peace Officer Qualifications	30.09 Summoning Aid
30.04 Required Training	30.10 Reserved
30.05 Compensation	30.11 Contract Law Enforcement
30.06 Peace Officers Appointed	

**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 PEACE OFFICERS APPOINTED.** The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council, and the Mayor shall select, subject to the approval of Council, the other members of the department.

*(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 RESERVED.**

**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)*

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## CHAPTER 31

### RESERVE PEACE OFFICERS

31.01 Establishment of Force	31.07 No Reduction of Regular Force
31.02 Training	31.08 Compensation
31.03 Status of Reserve Officers	31.09 Benefits When Injured
31.04 Carrying Weapons	31.10 Insurance Liability and False Arrest Insurance
31.05 Supplementary Capacity	31.11 No Participation in Pension Fund or
31.06 Supervision of Officers	Retirement System

**31.01 ESTABLISHMENT OF FORCE.** A force of reserve peace officers is hereby established in accordance with the provisions of Chapter 80D of the Code of Iowa. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

**31.02 TRAINING.** Training for individuals appointed as reserve peace officers shall be provided by the Police Department under the direction of the Police Chief, but may be obtained in a community college or other facility selected by the individual and approved by the Police Chief. All standards and training required under Chapter 80D of the Code of Iowa constitute the minimum standards for police reserve officers. Upon satisfactory completion of training, the Police Chief shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

**31.03 STATUS OF RESERVE OFFICERS.** Reserve peace officers shall serve as peace officers on the orders and at the direction of the Police Chief. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officers.

**31.04 CARRYING WEAPONS.** A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.

**31.05 SUPPLEMENTARY CAPACITY.** Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all the requirements of regular peace officers.

**31.06 SUPERVISION OF OFFICERS.** Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

**31.07 NO REDUCTION OF REGULAR FORCE.** There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

**31.08 COMPENSATION.** While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of \$1.00 per year. In addition to the above mentioned pay, the Police Chief may compensate reserve peace officers on an hourly basis, at the discretion of the Police Chief and subject to the approval of the Council. The hourly compensation shall be fixed from time to time by the Council.

**31.09 BENEFITS WHEN INJURED.** Hospital and medical assistance and benefits, as provided in Chapter 85 of the Code of Iowa, shall be provided by the Council to members of the reserve force who sustain injury in the course of performing official duties.

**31.10 INSURANCE LIABILITY AND FALSE ARREST INSURANCE.** Insurance liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

**31.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM.** This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State of which regular peace officers may become members.

## CHAPTER 35

# HAZARDOUS SUBSTANCE SPILLS

35.01 Purpose  
35.02 Definitions  
35.03 Cleanup Required  
35.04 Liability for Cleanup Costs

35.05 Notifications  
35.06 Police Authority  
35.07 City Liability

**35.01 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.

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

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

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

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

*(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. “Hazardous waste” means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation or physical, chemical or infectious characteristics, has either of the following effects:

- A. Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
- B. Poses a substantial danger to human health or the environment.

“Hazardous waste” may include, but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives. It does not include (a) agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners; or (b) source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

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

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

**35.03 CLEANUP REQUIRED.** Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, to an acceptance, safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The responsible person shall pay the cost of cleanup. If the responsible person does not begin the cleanup in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup or the City may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the City to finance, the

authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

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

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person.
2. The reasonable costs incurred by 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.

**35.05 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 Department 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 Department, which shall then notify the Department of Natural Resources.

**35.06 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.

**35.07 CITY 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 35.02[5].

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## CHAPTER 45

### PUBLIC OFFENSES

45.01 Assault	45.13 Antenna and Radio Wires
45.02 Harassment	45.14 Barbed Wire and Electric Fences
45.03 Disorderly Conduct	45.15 Discharging Weapons
45.04 Unlawful Assembly	45.16 Throwing and Shooting
45.05 Failure to Disperse	45.17 Criminal Mischief
45.06 Urinating and Defecating	45.18 Defacing Proclamations or Notices
45.07 Distributing Dangerous Substances	45.19 Unauthorized Entry
45.08 False Reports to or Communications with Public Safety Entities	45.20 Trespassing Prohibited
45.09 Refusing to Assist Officer	45.21 Fraud
45.10 Harassment of Public Officers and Employees	45.22 Theft
45.11 Interference with Official Acts	45.23 Fireworks
45.12 Abandoned or Unattended Refrigerators	45.24 Amusement Devices
	45.25 Residency Restrictions for Sex Offenders
	45.26 Bows and Arrows and Crossbows

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

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

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

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

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

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

intervention is reasonably necessary to restore order and to protect the safety of those assembled.

*(Code of Iowa, Sec. 708.1)*

**45.02 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, 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 such 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.

**45.03 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 which 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 which 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 a public offense.

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

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 which 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 which 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)*

**45.04 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)*

**45.05 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)*

**45.06 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 public or private land.

**45.07 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)*

**45.08 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.

**45.09 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)*

**45.10 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)*

**45.11 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 fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, 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)*

**45.12 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)*

**45.13 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])*

**45.14 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.

**45.15 DISCHARGING WEAPONS.**

1. No person shall intentionally discharge a firearm in a reckless manner.
2. It shall be unlawful for any person to discharge or cause to be discharged any air rifle, BB gun, toy pistol, toy gun or other toy arms or slingshot, loaded with leaden or other dangerous missiles, at any time or under any circumstances within the City limits, except by written consent of the Council.
3. It shall be unlawful for any person to possess or carry any toy pistol, toy gun or other toy arms or slingshot out of or by which any leaden or other dangerous missiles may be discharged.
4. It shall be unlawful for any parent, guardian or other person having the care and custody of any person under eighteen (18) years of age to purchase for or give to any such person or knowingly to permit any such underaged person to have any toy pistol, toy gun, or other toy arms or slingshot out of which any leaden or other dangerous missiles may be discharged.
5. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, simulated firearms or other firearms of any kind within the City with the following exceptions:
  - A. Veterans' organizations shall be authorized to conduct three volley or 21 gun salutes at the internment of veterans in cemeteries within the City limits.
  - B. Veterans' organizations shall be authorized to conduct three volley or 21 gun salutes at publicly owned locations in the City, with appropriate safeguards being implemented, on any holiday, public ceremony, or burial, where veterans of the nations are so honored.
  - C. Persons who are hired and authorized by the Urbana Community School District to use starter pistols with blanks at

athletic events shall be permitted to discharge their pistols during the event.

D. The Mayor and/or Police Chief may grant written permission to any **veterans** organization to conduct three volley or 21 gun salutes, as requested for circumstances or locations not specified above. Any Veterans Organization that intends to conduct a 3-volley or 21-gun salute under the above circumstances must notify the City of its intentions forty-eight (48) hours in advance of the event or ceremony.

**45.16 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. **(See also Section 45.26)**

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

**45.17 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)*

**45.18 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)*

**45.19 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.

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

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

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

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

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

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

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

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

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

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

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

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

**45.21 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)*

**45.22 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)*

**45.23 FIREWORKS.** The sale, use or exploding of fireworks within the City are subject to the following:

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.

*(Code of Iowa, Sec. 727.2)*

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

*(Code of Iowa, Sec. 727.2)*

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.

*(Code of Iowa, Sec. 727.2)*

**45.24 AMUSEMENT DEVICES.**

*(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 which 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 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.

#### **45.25 RESIDENCY RESTRICTIONS FOR SEX OFFENDERS.**

1. Purpose. The purpose of this section is to provide for the safety and well being of all citizens of Urbana, Iowa, by providing additional conditions to supplement those included in Chapter 692A Sex Offender Registry in the Code of Iowa.

2. Definitions. For the purpose of this section the following shall be defined as shown herein:

A. "Public park" means any area of land owned by the City of Urbana, Benton County, the State of Iowa, or any other governmental entity set apart for the recreation of the public.

B. "Public playground" means any area of land owned by the City of Urbana, Benton County, the State of Iowa, or any other governmental entity used for outdoor games and recreation.

C. "Public recreational trail" means any area of land owned by the City of Urbana, Benton County, the State of Iowa, or any other governmental entity used for outdoor recreational walking, running, hiking or biking activities excluding activities using a motorized vehicle.

D. "Sex offender" means a person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor as set out in Chapter 692A of the Code of Iowa.

3. Residency Restricted. A sex offender shall not reside within three thousand feet (3,000') of the real property comprising a public park, public playground, or a public recreational trail.

4. Municipal Infraction. A sex offender who resides within three thousand feet (3,000') of the real property comprising a public park, public playground, or public recreational trail commits a Municipal Infraction, subject to penalty as set out in Chapter 3 of the Urbana Code of Ordinances.

5. Exceptions. A sex offender residing within three thousand feet of the real property comprising a public park, public playground, or public recreational trail does not commit a violation of this section if any of the following apply:

- A. The sex offender is required to serve at a jail, prison, juvenile facility, or other correctional institution or facility.
- B. The sex offender is subject to an order of commitment under Chapter 229A of the Code of Iowa.
- C. The sex offender has established a residence prior to November 18, 2005, the effective date of the ordinance codified by this section.
- D. The sex offender is a minor or a ward under guardianship.

#### **45.26 BOWS AND ARROWS AND CROSSBOWS.**

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

- A. “Bow and arrow” means a bow and arrow combination that requires completely manual operation without any means to cock the weapon. This definition excludes bow and arrow combinations considered as toys and intended to release arrows incapable of penetrating a target or other surface.
- B. “Crossbow” means a traditional crossbow utilizing a mechanism wherein the weapon can be cocked and left in a stable state until it is subsequently released or fired at a later time via a trigger mechanism.

2. Discharge Within City Limits. It is unlawful for any person within the City limits to discharge any type of bow and arrow or crossbow unless that person complies with the following regulations and subsections 3 and 4.

- A. It is unlawful for any person to discharge any type of bow and arrow or crossbow within the City limits in a manner that endangers persons or property.

B. It is unlawful for any person to discharge any type of bow and arrow or crossbow in such a manner that causes the arrow or bolt to land on any property other than the property on which the arrow or bolt was discharged, unless written permission is granted by the impacted property owner(s).

C. It is unlawful to use and/or discharge any type of bow and arrow or crossbow on public property unless authorized by the City Council. **(See Section 45.16)**

3. Target Arrows. The use of any type of bow and the discharge of target arrows is permitted within the City limits for the purpose of target shooting. Any person who participates in target shooting pursuant to this section shall abide by subsection 2 and the following rules:

A. It is unlawful for any person fifteen (15) years of age or younger to participate in target shooting unless under the supervision of a parent or legal guardian.

B. It is unlawful for any person who participates in target shooting pursuant to this section to discharge a broadhead or any type of hunting arrow.

4. Hunting Within City Limits. The use of longbow, recurve and/or compound bows, or crossbows, and the discharge of broadhead or other hunting arrows or bolts is not permitted within the City limits for the purpose of taking game unless such hunting is in conformance with the regulations of the Iowa Department of Natural Resources and has been authorized by the City Council.

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## CHAPTER 46

### MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.04 Parental Responsibility

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

1. Definition. The term "minor" means in this section, any unmarried person below the age of eighteen (18) years.
2. Time Limits. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of:
  - A. Ten o'clock (10:00) p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday evenings to five o'clock (5:00) a.m. of the following morning; and
  - B. Eleven o'clock (11:00) p.m. on Friday and Saturday evenings to five o'clock (5:00) a.m. of the following morning.
3. Exceptions. The restriction provided by subsection 46.01(2) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, church, municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 46.01(2), except as otherwise provided in subsection 46.01(3).

*(Code of Iowa, Sec. 613.16)*

5. Responsibility of Business Establishments. It is unlawful for any persons operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by subsection 46.01(2) except as otherwise provided in subsection 46.01(3).

6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 46.01(2) and (3). Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 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)*

**46.04 PARENTAL RESPONSIBILITY.** This section is declared necessary 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, and is intended to address situations where parents have failed to act responsibly and reasonably in the supervision of their minor children to the detriment of the general public.

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

A. "Delinquent acts" means those acts which violate the laws of the United States, or the statutes of the State or the ordinances of the City or those acts which would cause or tend to cause the minor to come under the jurisdiction of the Juvenile Court, but do not include traffic violations.

B. "Illegal drugs" means controlled substances obtained without a legal prescription as defined in Iowa Code Chapters 124 and 155A.

C. "Juvenile delinquent" means those minors whose behavior interferes with the rights of others or menaces the welfare of the community, or is in violation of this section, or as defined in Iowa Code Chapter 232.2.

D. "Minor," for the purpose of this section, includes persons who are under eighteen (18) years of age.

E. "Parent" means a mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parent's stead who has custody or control of the minor.

F. "Recklessly" means conduct engaged in by a person in conscious disregard of a substantial and justifiable risk that circumstances exist or that a result will follow which constitutes an offense under this section and where such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

2. Parental Duties. It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act or to act recklessly. Included (without limitation) in this continuous duty of reasonable parental control are the following duties:

A. To keep illegal drugs or illegal weapons out of the home and provide that legal weapons and/or ammunition are inaccessible to the minor except as provided in Iowa Code Section 724.22.

B. To know the Curfew Regulations (Section 46.01 of this chapter) and to require the minor to observe the Curfew Regulations.

C. To require the minor, if sixteen (16) years of age or younger, to attend regular school sessions and to forbid the minor to be absent from class without parental or school permission as provided in the Center Point-Urbana Community School District attendance policy unless the parent has filed the Affidavit as provided in Iowa Code Section 299.6.

D. To arrange proper supervision for the minor when the parent must be absent, in accordance with Iowa Department of Human Services guidelines.

E. To not knowingly allow or permit the minor to maliciously or willfully destroy real, personal or mixed property which belongs to the City or is located in the City.

F. To not knowingly allow or permit the minor to keep stolen property, illegally possess weapons or illegal drugs, or associate with known juvenile delinquents, or criminal street gang members and to seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary.

3. Parental Violation and Penalty.

A. No parent of any minor under the age of eighteen (18) years shall fail to exercise reasonable parental control over such minor. An adjudication said minor has committed a felony, misdemeanor or violation of an ordinance except traffic violations may be considered as evidence that said parent failed to exercise reasonable parental control.

B. Pursuant to the violation of this section, the parent of a minor shall be held civilly responsible for the damages caused by the commission of any delinquent act, within the City.

C. Upon the first adjudication of a minor of committing a felony, misdemeanor, or ordinance violation except traffic violations, the notice sent to the parent as provided in this section shall be considered as a warning.

D. Upon subsequent adjudication of a minor within two (2) years of his or her first adjudication, as provided above, following the aforesaid notice to parent, a first violation of this section will be deemed to have occurred and the parent shall be subject to a civil penalty of fifty dollars (\$50.00).

E. Upon the second offense of a violation of this section within two (2) years of the notice, the parent shall be subject to a civil penalty of one hundred dollars (\$100.00) and, in addition, shall be required to participate in, through completion, a City-approved, community based treatment program (such as parenting skills, family services, employment and training, etc.) or community service working in a tutorial or educational setting.

F. Upon the third or subsequent offense of a violation of this section within three (3) years of the notice, the parent shall be subject to a civil penalty of two hundred dollars (\$200.00).

G. A violation of this section is a municipal infraction as provided in Iowa Code Section 364.22 and Chapter 3 of this Code of Ordinances.

4. Notification of Parents; Record of Notification.
  - A. When a minor is apprehended or detained for a delinquent or reckless act, the parent shall receive a written notice thereof, either by certified or registered mail, return receipt requested, or by personal service with a certificate of personal service returned, from the Police Department of the City following said adjudication or non-judicial sanction; and
  - B. A record of such notification shall be maintained by the Records Division of the Police Department.
  - C. A copy of this notice shall be provided the minor's school attendance center.
5. Liability of Parents; Record of Notification.
  - A. Injuring or Destroying Property or Acts of Vandalism. It is unlawful for any person to willfully or maliciously break, deface, injure or destroy any property within the City, whether such property is owned by the State, County, City or any other governmental body, or owned by any private person. It is a violation of this section for any person to commit an action of vandalism.
  - B. Liable For Actual Damages. The parent of an unemancipated minor who resides with such parent is liable for actual damages for the willful or malicious acts of such minor which cause injury to a person or property.
  - C. Recovery. No recovery under this section may exceed cost to repair damages, in addition to taxable court costs. In determining the damages to be allowed in an action under this section for personal injury, medical, dental and hospital expenses, loss of wages or other income, and the cost of repairing or replacing damaged property may be recovered.
  - D. Other Liability. This chapter shall not affect the recovery of damages in any other cause of action where the liability of the parent is predicated on a common law or statutory basis.

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## CHAPTER 47

# PARK REGULATIONS

47.01 Purpose  
47.02 Use of Drives Required  
47.03 Fires

47.04 Littering  
47.05 Camping  
47.06 Park Hours

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

*(Code of Iowa, Sec. 364.12)*

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

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

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

**47.05 CAMPING.** No person shall camp in any portion of a park unless allowed by City Council.

**47.06 PARK HOURS.** All City parks, with the exception of the park located at the corner of Ash Avenue and W. Wood Street, shall be available for public use between the hours of 6:00 a.m. and 9:00 p.m. daily unless otherwise specified. The City park located at the corner of Ash Avenue and W. Wood Street shall have the same time limits as those contained in this Code in Section 46.01 (CURFEW). Public use of the parks outside these hours shall not be allowed unless the City has authorized such use.

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## CHAPTER 48

# DRUG PARAPHERNALIA

48.01 Purpose  
48.02 Controlled Substance Defined  
48.03 Drug Paraphernalia Defined

48.04 Determining Factors  
48.05 Possession of Drug Paraphernalia  
48.06 Manufacture, Delivery or Offering For Sale

**48.01 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.

**48.02 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.

**48.03 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.

**48.04 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 which explain or depict its use.
10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

**48.05 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.

**48.06 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.

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## CHAPTER 50

### NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance  
50.02 Nuisances Enumerated  
50.03 Other Conditions  
50.04 Nuisances Prohibited  
50.05 Nuisance Abatement  
50.06 Notice to Abate: Contents  
50.07 Method of Service

50.08 Request for Hearing  
50.09 Abatement in Emergency  
50.10 Abatement by City  
50.11 Collection of Costs  
50.12 Installment Payment of Cost of Abatement  
50.13 Failure to Abate

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec 657.2)*

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. Filth or Noisome Substance. Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. Water Pollution. Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. Blocking Public and Private Ways. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue,

highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.

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.

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.

13. Stagnant Water. All ponds or pools of stagnant water.

14. Dead Animals. Carcasses of animals not disposed of within twenty-four (24) hours after death, as provided by State law.

*(Code of Iowa, Sec. 167.18)*

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

1. Spills of Hazardous Substances (**See Chapter 35**)
2. Junk and Junk Vehicles (**See Chapter 51**)
3. Abandoned Vehicles (**See Chapter 80**)
4. Dangerous Buildings (**See Chapter 145**)

5. Storage and Disposal of Solid Waste (**See Chapter 105**)
6. Trees (**See Chapter 151**)

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

*(Code of Iowa, Sec. 657.3)*

**50.05 NUISANCE ABATEMENT.** Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

**50.06 NOTICE TO ABATE: CONTENTS.** The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. 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 such person.

**50.07 METHOD OF SERVICE.** The notice to abate shall be served upon the property owner and the persons in possession of the property by either personal service by a law enforcement officer or by certified mail.

**50.08 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 fifteen (15) days from the date of the notice to abate, and if no such request for hearing is made, it shall be conclusively presumed that a nuisance exists as stated in the notice and that the nuisance 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.

**50.09 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 which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

**50.10 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])*

**50.11 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 (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

**50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT.** If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), 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)*

**50.13 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.

**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.

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## CHAPTER 51

### JUNK AND JUNK VEHICLES

#### 51.01 Definitions

#### 51.02 Junk and Junk Vehicles Prohibited

#### 51.03 Junk and Junk Vehicles a Nuisance

#### 51.04 Exceptions

#### 51.05 Notice to Abate

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

1. “Enclosed building” means any structure or portion thereof built for the enclosure of property, containing a roof and having exterior walls of the structure or a portion thereof constructed in such a manner as to obscure from any street or adjacent property the contents thereof.
2. “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.
3. “Junk vehicle” means any motor vehicle, recreational vehicle, boat, trailer or semi-trailer located on public or private property, whether licensed, unlicensed or legally placed in storage, which:
  - A. Lacks one or more wheels (exclusive of the spare) or an engine, transmission, differential, drive shaft, axle or any other component part thereof, the absence or removal of which renders the vehicle inoperable by its own power or unfit for legal use on the highways; and/or
  - B. Has become a habitat for nuisance animals or insects, such as rats, mice or snakes, or any other vermin or insects.
4. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

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

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

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

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

1. Any junk or a junk vehicle stored within an enclosed building;
2. An auto salvage yard or junk yard lawfully operated within the City;
3. Any vehicle used for racing at a sanctioned facility and used on a regular basis during the season. A “regular basis” is at least once per month. Such vehicle must conform to the following requirements:
  - A. Stored under a non-transparent cover adequate to cover the vehicle; and
  - B. Stored in the side yard of a residential district if said vehicle is a minimum of 25 feet from the front lot line of the lot on which it is stored, or in the rear yard in a residential district.

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

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

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## CHAPTER 55

### ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.15 Disposition of Animals
55.02 Animal Neglect	55.16 Impounding Costs
55.03 Livestock Neglect	55.17 Contract with Humane Society
55.04 Abandonment of Cats and Dogs	55.18 Releasing Animals
55.05 Livestock	55.19 Pet Awards Prohibited
55.06 At Large Prohibited	55.20 Keeping of Dangerous Animals Prohibited
55.07 Damage or Interference	55.21 Keeping of Vicious Animals Prohibited
55.08 Annoyance or Disturbance	55.22 Seizure, Impoundment and Disposition of Dangerous and Vicious Animals
55.09 Rabies Vaccination	55.23 Interference with Enforcement
55.10 Reporting Rabid or Diseased Animals	55.24 Animals in Parks
55.11 Report of Bites	55.25 Golf Courses
55.12 Confinement	55.26 Hold Harmless
55.13 Animal Quarantine	
55.14 At Large: Impoundment	

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

1. “Advertise” means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. “Animal” means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
3. “At large” means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. “Business” means any enterprise relating to any of the following:
  - A. The sale or offer for sale of goods or services.
  - B. A recruitment for employment or membership in an organization.
  - C. A solicitation to make an investment.
  - D. An amusement or entertainment activity.
5. “Dangerous Animal” means (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition and which is capable of inflicting serious injury upon or causing disease, among human beings or animals, and having known tendencies as a species to do so; (b) any animal declared to be dangerous by the County Board of

Health or Council or its designee; and (c) the following animals which have been deemed to be dangerous animals:

- A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- B. Wolves, coyotes and foxes;
- C. Badgers, wolverines, weasels, skunk, mink;
- D. Raccoons;
- E. Bears;
- F. Monkeys, baboons and chimpanzees;
- G. Bats;
- H. Alligators, caiman and crocodiles;
- I. Scorpions;
- J. Snakes that are venomous or constrictors;
- K. Gila monsters;
- L. Staffordshire Terrier breed of dog, American Pit Bull Terrier breed of dog; or American Staffordshire Terrier breed of dog.

6. "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.

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

8. "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, including chickens and roosters.

*(Code of Iowa, Sec. 717.1)*

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

10. "Vicious animal" means any animal, except for a dangerous animal, as listed above, that has bitten or clawed a person or persons while running at large, and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve (12) month period; or (b) a bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three (3) separate occasions within a twelve (12) month period.

**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 which 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 which 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 in compliance with the City's zoning regulations. Under no circumstance will chickens or roosters be allowed within the City limits.

**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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles, or by digging, trampling, or otherwise disturbing or damaging flowers, shrubs and gardens.

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

*(Code of Iowa, Sec. 351.33)*

**55.10 REPORTING RABID OR DISEASED ANIMALS.** Every owner or person having possession, custody or control of an animal which is known to be infected with rabies or other communicable disease or which has been bitten by an animal infected with rabies or other communicable diseases shall immediately report such fact to the health officer and shall have such animal placed in isolation and quarantine as directed by the health officer for such period as the health officer may designate and at the expense of the owner.

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

**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 ANIMAL QUARANTINE.** Whenever it becomes necessary to safeguard the public from the dangers of rabies or other communicable diseases, the board of health may issue a proclamation ordering every owner of an animal to confine said animal securely on the owner's premises for such period of time as the board of health shall deem necessary.

**55.14 AT LARGE: IMPOUNDMENT.** Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder. Owners shall be responsible for all costs associated with impoundment. If non-payment occurs, it will be a municipal infraction, up to \$750.

**55.15 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)*

**55.16 IMPOUNDING COSTS.** Impounding costs shall be established by resolution of the Council.

*(Code of Iowa, Sec. 351.37)*

**55.17 CONTRACT WITH HUMANE SOCIETY.** The City may enter into a contract with some regularly incorporated society organized for the express purpose of prevention of cruelty to animals, for the use of its facilities for the restraining and impounding of animals. Any such contract shall provide for the maintenance of suitable impounding quarters for the humane care of animals impounded therein, and for the destruction or disposition of animals impounded.

**55.18 RELEASING ANIMALS.** No person except the owner shall willfully open any door or gate on any private premises or otherwise perform any other action for the purpose of enticing or enabling any animal to leave such private premises and to be at large.

**55.19 PET AWARDS PROHIBITED.**

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

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

- A. A prize for participating in a game.
- B. A prize for participating in a fair.
- C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
- D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

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

- A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
- B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

**55.21 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 Police Chief that a guard dog is on duty at said premises.

**55.22 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS OR VICIOUS ANIMALS.**

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or Police Chief, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or Police Chief shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the officer shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, 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 dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the officer

shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the 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 dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or Police Chief.

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 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 officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals 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 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 Police Chief or designee is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of an officer issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

**55.23 INTERFERENCE WITH ENFORCEMENT.** No person shall willfully interfere with, molest or injure any agent of the City authorized to enforce the provisions of this chapter or seek to release any animal in the custody of such authorized agent.

**55.24 ANIMALS IN PARKS.** No animal shall be allowed in or within fifty (50) feet of any wading pools, pavilion or ball field in a City park, except that properly trained guide dogs are permitted in and within fifty (50) feet of

pavilions. No animal shall be allowed in any other area of a City park unless it is attached to a leash not more than six (6) feet in length with sufficient strength to restrain the animal when the leash is held by a person capable of restraining and controlling the animal.

**55.25 GOLF COURSES.** No animal shall be allowed on any golf course operated by the City.

**55.26 HOLD HARMLESS.** Absent a showing of reckless conduct, no person granted authority to enforce the provisions of this chapter (including, but not limited to, the responsible health officer, the Animal Warden, the board of health, the Council or any member thereof, and all peace officers and law enforcement officers of the City) shall be liable for damage to or destruction of any animal occurring during the course of enforcement of this chapter.

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## CHAPTER 60

### ADMINISTRATION OF TRAFFIC CODE

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

**60.05 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 “Urbana 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 school house.
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 chapter and State law relating to motor vehicles and law of the road are enforced by the Police Chief.

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

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

*(Code of Iowa, Sec. 102.4 & 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 & 321.274)*

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

or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

1. **Definition.** “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. **Permit Required.** No parade shall be conducted without first obtaining a written permit from the Mayor or 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 Fire Fighters.** Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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## CHAPTER 61

# TRAFFIC CONTROL DEVICES

61.01 Traffic Control Devices  
61.02 Installation  
61.03 Compliance  
61.04 Crosswalks

61.05 Traffic Lanes  
61.06 Necessity of Signs  
61.07 Moving or Damaging Devices  
61.08 Standards

**61.01 TRAFFIC CONTROL DEVICES.** The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections.

**61.02 INSTALLATION.** The Council shall cause to be placed and maintained traffic control devices to carry out the provisions of the Traffic Code of the City under State law or to regulate, guide or warn traffic. The City shall keep a record of all such traffic control devices.

*(Code of Iowa, Sec. 321.254 & 321.255)*

**61.03 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)*

**61.04 CROSSWALKS.** The Council is hereby authorized 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)*

**61.05 TRAFFIC LANES.** Where traffic lanes have been marked on street pavements at such places as traffic conditions require, 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)*

**61.06 NECESSITY OF SIGNS.** No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in a viewable position and sufficiently legible to an ordinarily observant person.

**61.07 MOVING OR DAMAGING DEVICES.** It is unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the City.

**61.08 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)*

## 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 Tampering with Vehicle  
62.07 Open Containers in Motor Vehicles

62.08 Obstructing View at Intersections  
62.09 Reckless Driving  
62.10 Careless Driving  
62.11 Milling  
62.12 Disturbance of Peace by Motor Vehicles  
62.13 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.37 – Display of plates.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
9. Section 321.99 – Fraudulent use of registration.
10. Section 321.174 – Operators licensed.
11. Section 321.174A – Operation of motor vehicles with expired license.
12. Section 321.180 – Instruction permits.
13. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
14. Section 321.193 – Restricted licenses.
15. Section 321.194 – Special minor’s licenses.

16. Section 321.216 – Unlawful use of license and non-operator’s identification card.
17. Section 321.216B – Use of driver’s license or non-operator’s identification card by underage person to obtain alcohol.
18. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
19. Section 321.219 – Permitting unauthorized minor to drive.
20. Section 321.220 – Permitting unauthorized person to drive.
21. Section 321.221 – Employing unlicensed chauffeur.
22. Section 321.222 – Renting motor vehicle to another.
23. Section 321.223 – License inspected.
24. Section 321.224 – Record kept.
25. Section 321.231 – Authorized emergency vehicle operation.
26. Section 321.232 – Radar jamming devices; penalty.
27. Section 321.234A – All-terrain vehicles.
28. Section 321.235A – Electric personal assistive mobility devices.
29. Section 321.247 – Golf cart operation on City streets.
30. Section 321.257 – Official traffic control signal.
31. Section 321.259 – Unauthorized signs, signals or markings.
32. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
33. Section 321.262 – Damage to vehicle.
34. Section 321.263 – Information and aid.
35. Section 321.264 – Striking unattended vehicle.
36. Section 321.265 – Striking fixtures upon a highway.
37. Section 321.275 – Operation of motorcycles and motorized bicycles.
38. Section 321.278 – Drag racing prohibited.
39. Section 321.288 – Control of vehicle; reduced speed.
40. Section 321.295 – Limitation on bridge or elevated structures.

41. Section 321.297 – Driving on right-hand side of roadways; exceptions.
42. Section 321.298 – Meeting and turning to right.
43. Section 321.299 – Overtaking a vehicle.
44. Section 321.302 – Overtaking and otherwise.
45. Section 321.303 – Limitations on overtaking on the left.
46. Section 321.304 – Prohibited passing.
47. Section 321.306 – Roadways laned for traffic.
48. Section 321.307 – Following too closely.
49. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
50. Section 321.309 – Towing; convoys; drawbars.
51. Section 321.310 – Towing four-wheel trailers.
52. Section 321.312 – Turning on curve or crest of grade.
53. Section 321.313 – Starting parked vehicle.
54. Section 321.314 – When signal required.
55. Section 321.315 – Signal continuous.
56. Section 321.316 – Stopping.
57. Section 321.317 – Signals by hand and arm or signal device.
58. Section 321.319 – Entering intersections from different highways.
59. Section 321.320 – Left turns; yielding.
60. Section 321.321 – Entering through highways.
61. Section 321.322 – Vehicles entering stop or yield intersection.
62. Section 321.323 – Moving vehicle backward on highway.
63. Section 321.323A – Approaching certain stationary vehicles.
64. Section 321.324 – Operation on approach of emergency vehicles.
65. Section 321.324A – Funeral processions.
66. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
67. Section 321.330 – Use of crosswalks.
68. Section 321.332 – White canes restricted to blind persons.

69. Section 321.333 – Duty of drivers.
70. Section 321.340 – Driving through safety zone.
71. Section 321.341 – Obedience to signal of train.
72. Section 321.342 – Stop at certain railroad crossings; posting warning.
73. Section 321.343 – Certain vehicles must stop.
74. Section 321.344 – Heavy equipment at crossing.
75. Section 321.344B – Immediate safety threat; penalty.
76. Section 321.354 – Stopping on traveled way.
77. Section 321.359 – Moving other vehicle.
78. Section 321.362 – Unattended motor vehicle.
79. Section 321.363 – Obstruction to driver's view.
80. Section 321.364 – Preventing contamination of food by hazardous material.
81. Section 321.365 – Coasting prohibited.
82. Section 321.366 – Acts prohibited on fully controlled access facilities.
83. Section 321.367 – Following fire apparatus.
84. Section 321.368 – Crossing fire hose.
85. Section 321.369 – Putting debris on highway.
86. Section 321.370 – Removing injurious material.
87. Section 321.371 – Clearing up wrecks.
88. Section 321.372 – School buses.
89. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
90. Section 321.381A – Operation of low-speed vehicles.
91. Section 321.382 – Upgrade pulls; minimum speed.
92. Section 321.383 – Exceptions; slow vehicles identified.
93. Section 321.384 – When lighted lamps required.
94. Section 321.385 – Head lamps on motor vehicles.
95. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

96. Section 321.387 – Rear lamps.
97. Section 321.388 – Illuminating plates.
98. Section 321.389 – Reflector requirement.
99. Section 321.390 – Reflector requirements.
100. Section 321.392 – Clearance and identification lights.
101. Section 321.393 – Color and mounting.
102. Section 321.394 – Lamp or flag on projecting load.
103. Section 321.395 – Lamps on parked vehicles.
104. Section 321.398 – Lamps on other vehicles and equipment.
105. Section 321.402 – Spot lamps.
106. Section 321.403 – Auxiliary driving lamps.
107. Section 321.404 – Signal lamps and signal devices.
108. Section 321.404A – Light-restricting devices prohibited.
109. Section 321.405 – Self-illumination.
110. Section 321.406 – Cowl lamps.
111. Section 321.408 – Back-up lamps.
112. Section 321.409 – Mandatory lighting equipment.
113. Section 321.415 – Required usage of lighting devices.
114. Section 321.417 – Single-beam road-lighting equipment.
115. Section 321.418 – Alternate road-lighting equipment.
116. Section 321.419 – Number of driving lamps required or permitted.
117. Section 321.420 – Number of lamps lighted.
118. Section 321.421 – Special restrictions on lamps.
119. Section 321.422 – Red light in front.
120. Section 321.423 – Flashing lights.
121. Section 321.430 – Brake, hitch and control requirements.
122. Section 321.431 – Performance ability.
123. Section 321.432 – Horns and warning devices.
124. Section 321.433 – Sirens, whistles and bells prohibited.
125. Section 321.434 – Bicycle sirens or whistles.

126. Section 321.436 – Mufflers, prevention of noise.
127. Section 321.437 – Mirrors.
128. Section 321.438 – Windshields and windows.
129. Section 321.439 – Windshield wipers.
130. Section 321.440 – Restrictions as to tire equipment.
131. Section 321.441 – Metal tires prohibited.
132. Section 321.442 – Projections on wheels.
133. Section 321.444 – Safety glass.
134. Section 321.445 – Safety belts and safety harnesses; use required.
135. Section 321.446 – Child restraint devices.
136. Section 321.449 – Motor carrier safety regulations.
137. Section 321.450 – Hazardous materials transportation.
138. Section 321.454 – Width of vehicles.
139. Section 321.455 – Projecting loads on passenger vehicles.
140. Section 321.456 – Height of vehicles; permits.
141. Section 321.457 – Maximum length.
142. Section 321.458 – Loading beyond front.
143. Section 321.460 – Spilling loads on highways.
144. Section 321.461 – Trailers and towed vehicles.
145. Section 321.462 – Drawbars and safety chains.
146. Section 321.463 – Maximum gross weight.
147. Section 321.465 – Weighing vehicles and removal of excess.
148. Section 321.466 – Increased loading capacity; reregistration.

**62.02 PLAY STREETS DESIGNATED.** 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 TAMPERING WITH VEHICLE.** It is unlawful for any person, either individually or in association with one or more other persons, willfully to injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

**62.07 OPEN CONTAINERS IN MOTOR VEHICLES.**

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

*(Code of Iowa, Sec. 321.284)*

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

*(Code of Iowa, Sec. 321.284A)*

As used in this section “passenger area” means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

**62.08 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 shall be deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

**62.09 RECKLESS DRIVING.** No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

*(Code of Iowa, Sec. 321.277)*

**62.10 CARELESS DRIVING.** No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

*(Code of Iowa, Sec. 321.277A)*

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

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

**62.12 DISTURBANCE OF PEACE BY MOTOR VEHICLES.** No person shall drive any motor vehicle upon a street or highway or alley so as to disturb the peace and quiet of the residents of the City by squealing tires or roaring of motor or causing loud and excessive noises in the operation of the motor vehicle.

**62.13 ENGINE BRAKES AND COMPRESSION BRAKES.** It is unlawful for any person in any part of the City to use or operate or cause to be used or operated any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle when such use or operation results in excessive, loud, unusual, explosive or disturbing noises from the vehicle. The City shall cause notices to be posted or signs erected indicating such prohibition.

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## CHAPTER 63

### SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

*(Code of Iowa, Sec. 321.285)*

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

1. Business District — Twenty (20) miles per hour.  
*(Code of Iowa, Sec. 321.285 [1])*
2. Residence or School District — Twenty-five (25) miles per hour.  
*(Code of Iowa, Sec. 321.285 [2])*
3. Suburban District — Forty-five (45) miles per hour.  
*(Code of Iowa, Sec. 321.285 [4])*

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

reasonable and safe at such location. The following special speed zones have been established:

*(Code of Iowa, Sec. 321.290)*

1. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. West Main Street from Cherry Avenue to Ash Avenue.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. Hutton Drive;
  - B. 30<sup>th</sup> Avenue from 55<sup>th</sup> Street (Hwy. 150) to southern boundary of Heartland Nature Estates subdivision;
  - C. W. Main Street from Sunset Street to the north end of the street.
3. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. Sunset Street from the intersection of Sunset Street and Hwy. 150 east to I-380.
4. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. Hwy. 150 within the City limits (from the west City limits at 30<sup>th</sup> Avenue to the north City limits north of Hutton Drive).
5. Special Speed Zones. A speed in excess of DOT-established speeds is unlawful on any of the following designated streets or parts thereof.
  - A. Interstate 380 (I-380) within the City limits (between Exit 41 and Exit 43).

**63.05 MINIMUM SPEED.** No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

*(Code of Iowa, Sec. 321.294)*

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## CHAPTER 64

# TURNING REGULATIONS

64.01 Turning at Intersections  
64.02 U-turns

64.03 Left Turn for Parking

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

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

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

*(Code of Iowa, Sec. 321.311)*

**64.02 U-TURNS.** It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Stop or Yield  
65.02 School Stops

65.03 Stop Before Crossing Sidewalk  
65.04 Stop When Traffic Is Obstructed  
65.05 Yield to Pedestrians in Crosswalks

**65.01 STOP OR YIELD.** Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

**65.02 SCHOOL STOPS.** At any school crossing zone, 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)*

**65.03 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)*

**65.04 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.

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

*(Code of Iowa, Sec. 321.327)*

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## CHAPTER 66

### LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo  
66.02 Permits for Excess Size and Weight  
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges  
66.05 Truck Route

**66.01 TEMPORARY EMBARGO.** If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs erected in accordance with Chapter 61 of this Traffic Code.

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

**66.02 PERMITS FOR EXCESS SIZE AND WEIGHT.** The Council may, upon application and good cause being shown 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 streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

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

**66.04 LOAD LIMITS ON BRIDGES.** Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

*(Code of Iowa, Sec. 321.473)*

**66.05 TRUCK ROUTE.** When truck routes have been designated in accordance with Chapter 61, any motor vehicle exceeding established weight limits shall comply with the following:

1. Use of Established Routes. Every such motor vehicle having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon those streets within the City designated as truck routes and none other.

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

## CHAPTER 67

### PEDESTRIANS

67.01 Walking in Street  
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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## CHAPTER 68

### ONE-WAY TRAFFIC

**68.01 ONE-WAY TRAFFIC REQUIRED.** When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

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

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## CHAPTER 69

### PARKING REGULATIONS

69.01 Parking Limited or Controlled

69.02 Park Adjacent to Curb

69.03 Park Adjacent to Curb – One-way Street

69.04 Angle Parking

69.05 Angle Parking – Manner

69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited

69.08 Persons With Disabilities Parking

69.09 Truck Parking Limited

69.10 Snow Removal

**69.01 PARKING LIMITED OR CONTROLLED.** Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

**69.02 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)*

**69.03 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)*

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

1. West Wood Street on the north side from Walnut Avenue to Ash Avenue;
2. West Wood Street on the south side from Brush Avenue to Ash Avenue;
3. West Wood Street on the north side west of the intersection with Ash Avenue and adjacent to St. Mary's Church property;

4. West Main Street on the north side from Walnut Avenue west to the school driveway, except that parking in this area is subject to the following restrictions and conditions:

A. On all days when school classes are not in session, this area shall be available for public parking;

B. On all days when school classes are in session, this area shall be available for public parking during the hours prior to seven o'clock (7:00) a.m. and after four o'clock (4:00) p.m. only; between the hours of 7:00 a.m. and 4:00 p.m., this parking area shall be considered to be parallel parking and shall be restricted to school bus parking only.

5. Brush Avenue on the west side from West Wood Street south to the alley which runs east and west between Brush Avenue and Ash Avenue.

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

**69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL.** No person shall park a vehicle upon public property for more than seventy-two (72) hours 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 the Code of Ordinances.

**69.07 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. Parking is not allowed on the side of the street that has the mailboxes. Also, parking is not allowed within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.  
*(Code of Iowa, Sec. 321.236 [1])*
4. Sidewalks. On or across a sidewalk.  
*(Code of Iowa, Sec. 321.358 [1])*
5. Driveway. In front of a public or private driveway.  
*(Code of Iowa, Sec. 321.358 [2])*
6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358[3])*
7. Fire Hydrant. Within five (5) feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358 [4])*
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.  
*(Code of Iowa, Sec. 321.358 [6])*
9. 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])*
10. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.  
*(Code of Iowa, Sec. 321.358 [10])*

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

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

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

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

13. Churches, Nursing Homes and Other Buildings. A space of 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)*

14. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 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 shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

16. 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.

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

18. Richland Avenue from Sunset Street to South Street. No parking on either side of Richland Avenue from Sunset Street to South Street.

19. Union Avenue from Sunset to the City Limits. No parking on either side of Union Avenue from Sunset Street to the City Limits.

**69.08 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 motor 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 motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

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

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

B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A (1) of the Code of Iowa.

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

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

1. Business and Residential Districts. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle on any of the streets in the business or residential districts having a roadway of less than twenty-six (26) feet in width, and no person shall park or leave unattended such vehicle on any of the other streets in the business or residential districts for a continuous period of more than two (2) hours. When actually receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than forty-five (45) minutes within a twenty-four (24) hour period or when located at a refueling facility where adequate parking is available.
3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

**69.10 SNOW REMOVAL POLICY.** The purpose of the Snow and Ice Control Policy is to establish the City of Urbana's policy level of service for clearance of snow or ice and maintenance of its street system during the winter months. The Policy will serve as a practical guide for effective snow removal operations in the City. Snow and ice control is necessary for routine travel and emergency services. The City will provide snow and ice control in a safe and effective manner, weighing environmental impact, safety, equipment, availability of deicing materials, and personnel concerns. This Policy is intended to satisfy the requirements for governmental exemptions within Iowa Code Section 668.10(2) and supersedes all previous written policies of the City of snow and ice control operations. Provisions contained in this Policy may be updated and reviewed as conditions or circumstances warrant change.

1. **IMPLEMENTATION:** The Snow and Ice Policy will be in effect for normal winter operations at times when weather conditions could cause accumulation of frost, sleet, ice, or snow in the City.

2. **WEATHER FORECASTING:** Weather information is essential for good planning of both snow and ice control operations and other weather-related emergencies. The City will utilize 24 hour predictions of the National Weather Service to prepare for storm events. The City will also monitor and gather current weather information from local sources.

3. **NOTIFICATION OF SNOW AND ICE ACTIVITY:** The Mayor or the Public Works Director will initiate the appropriate action following the guidelines set forth in this Snow and Ice Control Policy. The Public Works Director will inform the City Clerk's Office and Police Department that snow and ice control procedures have commenced.

4. **OPERATIONS:** The Public Works Director may confer with the Police Department in making a judgment when to begin snow or ice control operations based on the following criteria:

- a. Icy conditions on the streets which affect travel;
- b. The depth and time of snow accumulation along with the volume of traffic;
- c. Snow and ice control operations will generally not be conducted for snowfall of less than two inches.

5. **PRIORITIES:** In order to make efficient use of available resources, the following priorities are established:

- a. The City will prioritize "Main Arteries", which connect major sections of the City, provide access for emergency fire, police, medical services, schools, and commercial businesses or are bus routes.
- b. The second priority is snow and ice control on local streets.
- c. The City policy identifies that alleys are the last priority in snow removal efforts. After all streets are cleared then the City will clear City owned alleys.

6. **USE OF ABRASIVE MATERIAL AND CHEMICALS:** The City will use sand, salt and other chemicals when there is ice. The City will apply ice control materials at varying application rates depending upon the temperature, time, and nature of the street conditions. Generally a mixture of salt and sand will be used. A reduced amount of salt will be used when salt is in

short supply. The City may apply liquid anti-icers or deicers (such as liquid calcium chloride or magnesium chloride), prior to and during storm conditions to prevent the bonding of snow and ice to the pavement.

The effect chemicals and abrasives have upon the environment, along with budget constraints and availability of chemicals will limit the use of sand, salt and other chemicals. Priority for the use of abrasives and chemicals is to intersections, hills, curves and bridges. Streets will not always be able to be completely cleared of snow and ice.

**7. CITIZEN COMPLAINTS:** Citizen complaints concerning snow and ice control efforts will be routed to the Public Works Director. The Mayor and Public Works Director will determine appropriate response to citizen complaints.

**8. PARKING:** No parking shall be permitted on a City Street when three (3) or more inches of snow are forecasted by the National Weather Service or when three (3) or more inches of snow has fallen, as by measured at the Urbana City Hall. City Ordinance 69.10 prevents parking on City streets during snow removal operations unless the snow has been removed and the snow has ceased to fall.

**9. SNOW ACCUMULATION REMOVAL:** The Public Works Director will determine when snow accumulations will be removed by truck from an area. Snow removal will primarily be conducted where accumulated piles of snow create a hazardous condition or at the discretion of the Public Works Director. Snow removal operations will commence after other snowplowing of streets has been completed. Snow removal operations may be delayed depending on weather conditions, personnel, or equipment.

**10. WORK SCHEDULE FOR SNOWPLOW OPERATORS:** Snowplow operators are expected to work eight-hour shifts. In severe snow emergencies, operators may have to work in excess of eight-hour shifts. However, because of budget and safety concerns, no operator shall work more than a sixteen (16) hour shift and be scheduled for another shift within eight hours.

**11. WEATHER CONDITIONS:** Snow and Ice control operations will be conducted only when weather conditions do not endanger the safety of city employees and equipment. Factors that may delay snow and ice control operations include severe cold, significant winds, and limited visibility.

12. **SIDEWALKS:** As outlined in Chapter 136.03, Removal of Snow, Ice and Accumulations of the Municipal Code, all sidewalks adjacent to private property are the responsibility of the property owner. (Snow is to be removed down to the concrete along the entire width and length of the sidewalk abutting property).

The City's responsibility is to plow the streets and keep them open to traffic. Due to the location of some sidewalks and the volume of snow being moved, there will be occasions where the plowing operation may deposit additional snow on the sidewalk. It is still the responsibility of the property owner to remove all snow from their sidewalk.

The City may provide snow and ice control on other areas bordering city property as required but specifically the areas identified below. The City will also maintain the sidewalks along these major arterial routes for the benefit of the entire community.

- a. Wood Street Park
- b. Parking in Front of Legion Hall

As there is a limited number of personnel available, the City will only maintain these sidewalks after all the streets have been plowed.

13. **DRIVeways:** City snowplows will not clear private driveways. The snow placed in driveways by City plows is the responsibility of the property owner to remove. Snow from a private driveway may not be placed no or pushed across a City Street in accordance with Chapter 135.12 Dumping of Snow of the Municipal Code.

14. **MAILBOXES:** The City will only clean the snow within the confines of curb line to curb line of a street. The adjacent property owner is responsible for any other snow cleaning around mail boxes and to assure the mail box is properly installed behind the curb line and able to withstand snow clearing efforts by the City. The City will replace mailboxes physically damaged by the plow hitting it. The City will not replace mailboxes damaged by the weight and/or force of the snow coming off the plow. The City will not be responsible for improperly installed or deteriorated posts.

15. **DISCLAIMER:** The Policies identified may be affected by at least one or more of the following events, which could delay or alter the snow and ice control by the City:

- a. Equipment breakdown;
- b. Vehicles disabled in deep snow;
- c. Weather so severe as to cause crews to be called in from the streets;
- d. Unforeseen conditions and emergencies; or
- e. The availability of ice control materials.

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## CHAPTER 70

### TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation  
70.02 Scheduled Violations  
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended  
70.05 Presumption in Reference to Illegal Parking  
70.06 Impounding Vehicles

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

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

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

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for snow route parking violations<sup>†</sup> and ten dollars (\$10.00) for all other 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). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

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

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<sup>†</sup> **EDITOR'S NOTE:** A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.11.)

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

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

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

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

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

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

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

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

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

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## CHAPTER 75

### ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose  
75.02 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 flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

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

2. “Snowmobile” means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (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 which has been altered or equipped with runners, skis, belt-type tracks or treads.

*(Code of Iowa, Sec. 321G.1[18])*

**75.03 GENERAL REGULATIONS.** No person shall operate an ATV 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, numbering, equipment and manner of operation.

*(Code of Iowa, Ch. 321G & Ch. 32II)*

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

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

2. Snowmobile Routes. Snowmobiles shall be allowed to operate on designated snowmobile routes within the city limits. Snowmobile routes shall be visibly marked as a snowmobile route with appropriate signage.

3. Speed Limit. Snowmobiles shall not exceed posted speed limits within city limits.

4. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Snowmobiles shall be allowed to operate on prohibited streets when the operator is taking the most direct route to the snowmobile route or home from the snowmobile route.

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 ( $90^\circ$ ) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

(4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

*(Code of Iowa, Sec. 321G.9[2])*

5. 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])*

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

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

7. 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.

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

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

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

*(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 dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

**75.08 HOURS OF OPERATION.** No snowmobile shall be operated in the City between the hours of 10:00 p.m. to 7:00 a.m. Sunday through Thursday and 12:00 midnight to 7:00 a.m. Friday through Saturday except for emergency situations or for loading and unloading from a transport trailer.

## CHAPTER 76

### BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Carrying Articles
76.02 Traffic Code Applies	76.09 Riding on Sidewalks
76.03 Double Riding Restricted	76.10 Towing
76.04 Two Abreast Limit	76.11 Improper Riding
76.05 Bicycle Paths	76.12 Parking
76.06 Speed	76.13 Equipment Requirements
76.07 Emerging from Alley or Driveway	76.14 Special Penalty

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

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

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

*(Code of Iowa, Sec. 321.234)*

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

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

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

**76.12 PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

**76.14 SPECIAL PENALTY.** Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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## CHAPTER 77

### TRACKED VEHICLES

77.01 Purpose  
77.02 Definitions  
77.03 General Regulations

77.04 Places of Operation  
77.05 Liability for Damage to City Property  
77.06 Penalties for Violations

**77.01 PURPOSE.** The purpose of this chapter is to regulate the operation of tracked vehicles within the City in order to promote public welfare and protect the public health, safety, and property.

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

1. “Tracked vehicle” means any motorized piece of equipment or vehicle that moves upon treads or tracks rather than tires.
2. “City property” includes all streets, alleys, parks and other land owned by the City.

**77.03 GENERAL REGULATIONS.** No person shall operate any tracked vehicle within the City in violation of the rules established by this chapter, except as authorized by Section 77.04.

#### 77.04 PLACES OF OPERATION.

1. Streets, Alleys, Parks and Other City Land. No person shall operate or park any tracked vehicle upon any City street or alley within the City, nor shall any person operate or park any tracked vehicle in a designated City park or on any other City property, except as provided herein. A person may operate or park a tracked vehicle upon a City street or alley within the City, provided that protective planking is laid for the vehicle along the route of travel to prevent the tracks of the vehicle from contacting or damaging said City street or property.
2. Private Property. Tracked vehicles may be operated or parked upon private property provided they are transported to and from such property by means of a truck or trailer equipped with tires, and are loaded and unloaded onto private property. Loading and unloading of tracked vehicles upon City property is not allowed, except as provided in subsection 1.

**77.05 LIABILITY FOR DAMAGE TO CITY PROPERTY.** The operator of a tracked vehicle upon City property as described in this chapter shall be liable for any and all damage to City property arising from the operation of said vehicle,

including the reasonable cost of repair and/or replacement of the damaged City property. Such liability may be waived by agreement of the City and the operator, executed prior to the commencement of the operation of the vehicle within the City. Such liability for damage to City property is also subject to any applicable State or Federal law regarding liability for operation of such equipment.

**77.06 PENALTIES FOR VIOLATION.** Any violation of this chapter is a municipal infraction.

**CHAPTER 78****GOLF CARTS AND UTVs ON CITY STREETS**

78.01 Purpose  
78.02 Definitions  
78.03 General Regulations

78.04 Places of Operation  
78.05 Liability for Damage to City Property  
78.06 Penalties for Violations

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

**78.02 DEFINITIONS.** “*Golf cart*” means a three or four wheeled recreational vehicle generally used for transportation of person(s) in the sport of golf, that is limited in engine displacement of less than 800 cubic centimeters, and has a total dry weight of less than 800 pounds. *UTV*” - Utility terrain vehicle” means a motor driven device, other than a golf cart or low-speed vehicle, that is designed to be used primarily off of a highway and that has, and was originally manufactured with, all of the following: A gross weight of more than 900 pounds but not more than 1,999 pounds, four or more low pressure tires, cargo box or dump box , steering wheel, tail light, brake light, two headlights, width of not more than 65 inches, seats for at least 2 occupants, all of which seating is designed not to be straddled, a system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident, and a system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.

**78.03 OPERATION OF GOLF CARTS PERMITTED.** Golf carts and UTVs may be operated upon streets of the City by persons possessing a valid Iowa operator’s license, proof of insurance and at least sixteen (16) years of age except as prohibited in the City’s Traffic Code (Chapters 60 through 70) or this Chapter. A registration fee of \$25<sup>00</sup> will be required per year upon which you will obtain a registration number. The owner will then be responsible for putting on 3” reflective numbers on the side of vehicle.

**78.04 PROHIBITED STREETS.** Golf carts and UTVs shall not be operated upon but may cross Sunset Street.

**78.05 UNLAWFUL OPERATION.**

1. No golf cart or UTV shall be operated or parked upon City Sidewalks.
2. No golf cart or UTV shall be operated while under the influence of intoxicating liquor, narcotics or habit forming drugs.
3. No person shall operate a golf cart or UTV in a careless, reckless or negligent manner endangering the person or property of another or causing injury or damage to same.
4. No golf cart or UTV shall carry more passengers than golf cart or UTV is designed for.

**78.06 EQUIPMENT.** Golf carts and UTVs operated upon City streets shall be equipped with a minimum of the following safety features.

1. A slow moving vehicle sign.
2. A bicycle safety flag, the top of which shall be a minimum of five (5) feet from ground level.
3. Adequate brakes.
4. Rear view mirror – driver's side

**78.07 HOURS OF OPERATION.** Golf carts and UTVs may be operated on city streets only between sunrise and sunset.

**78.08 SPEED.** No golf cart or UTV shall be operated on any City street at a speed in excess of twenty-five (25) miles per hour. Posted Speed must be followed in accordance with the Code of Iowa.

**78.11 PENALTY.** In the event that a person violates this chapter and is guilty of a simple misdemeanor punishable as a scheduled violation under Iowa Code or of a municipal infraction under City Code, for which the penalty is at least \$750.00 for the first violation and at least \$1,000.00 for a seconded or subsequent and \$1,250.00 for the third violation resulting in impoundment of golf cart or UTV at the owners expense. Costs for recovery of golf cart or UTV may include and are not limited to towing, storage and others fees associated with the cost of impounding. After a third violation, your privileges will be permanently revoked.

(Code of Iowa, Sec. 321.247)

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## CHAPTER 80

### ABANDONED VEHICLES

80.01 Definitions  
80.02 Authority to Take Possession of Abandoned Vehicles  
80.03 Notice by Mail  
80.04 Notification in Newspaper  
80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles  
80.07 Disposal of Totally Inoperable Vehicles  
80.08 Proceeds from Sales  
80.09 Duties of Demolisher

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

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

1. “Abandoned vehicle” means any of the following:
  - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
  - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
  - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
  - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
  - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
  - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. “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. 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. 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 the 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 three dollars (\$3.00) if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

**80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.** The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall

then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

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## CHAPTER 90

### WATER SERVICE SYSTEM

90.01 Definitions	90.14 Responsibility for Water Service Pipe
90.02 Superintendent's Duties	90.15 Failure to Maintain
90.03 Mandatory Connections	90.16 Curb Valve
90.04 Cross-Connection Control	90.17 Interior Valve
90.05 Abandoned Connections	90.18 Inspection and Approval
90.06 Permit	90.19 Completion by the City
90.07 Fee for Permit and Connection Charge	90.20 Shutting off Water Supply
90.08 Compliance with Plumbing Code	90.21 Operation of Curb Valve and Hydrants
90.09 Plumber Required	90.22 Line Extensions
90.10 Excavations	90.23 Backflow Prevention Valve
90.11 Installation of Water Mains	90.24 Connections Outside the City
90.12 Tapping Mains	90.25 Filling Bulk Tanks
90.13 Installation of Water Service Pipe	90.26 Bulk Water Sales

**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. “Containment” means a method of backflow prevention which requires a backflow prevention assembly on certain water services. Containment requires that the backflow prevention assembly be installed on the water service as close to the public water supply main as is practical.
3. “Customer” means any person or business receiving water service from the City as well as the owner of the property served. Both water users and property owners are jointly and severally liable for the duties, responsibilities, liabilities and obligations set out in this Code of Ordinances.
4. “Person” means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such, jointly or severally.
5. “Repeat Offender” means a customer who has had service disconnected three (3) times within a twelve-month period for nonpayment of said customer’s bill for water service. The Council, at their discretion, may require such a customer to place a service deposit with the City as a condition for receiving water service if the customer does not already have a deposit on record.

6. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
7. "Water main" means a water supply pipe provided for public or community use.
8. "Water service pipe" means the pipe from the water main to the building served.
9. "Water system" or "Waterworks" 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 and the Urbana, Iowa Design Standards. This chapter and those standards 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.** 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 thirty (30) days after the date of official notice to do so, provided that said public water main is located within two hundred (200) feet of the property line of such owner.

**90.04 CROSS-CONNECTION CONTROL.** Cross-connection control shall be provided in accordance with the provisions of this section.

1. Proposed Water Service. No person shall install or cause to have installed a water service to a building or property if it is found that contamination or pollution of the public water supply could occur unless the water service is protected by an approved backflow prevention assembly for containment. The Superintendent shall review plans and other information to determine if cross-connections will exist and the degree of hazard. The customer shall install, or cause to have installed, an approved assembly as directed by the Superintendent before water

service is initiated. Reconstruction of an existing water service shall be treated as a proposed water service for the purposes of this section.

2. Existing Water Services. The standards used to determine the degree of hazard for a water service shall be consistent with standards published by the Iowa Department of Public Health. If the Superintendent determines that a water service may contaminate the public water supply, the Superintendent shall require that the customer install the appropriate backflow prevention assembly for containment. If a customer refuses to install a backflow prevention assembly when required, the Superintendent may order that water service to the customer be discontinued until an appropriate backflow prevention assembly is installed.

3. Backflow Prevention Assemblies for Containment. The Superintendent shall approve backflow prevention devices tested and maintained according to Iowa Public Health Department rules. No device or assembly shall be removed from use or relocated or other device or assembly substituted without the approval of the Superintendent. If a device or assembly is found to be defective or inoperative, the Superintendent shall require the repair or replacement thereof within two weeks. Devices shall be installed immediately following the water meter or as close to that location as deemed practical by the Superintendent.

**90.05 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. The Superintendent may require the complete removal of the corporation stop and seal with solid sleeve at cost to the customer.

**90.06 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.

**90.07 FEE FOR PERMIT AND CONNECTION CHARGE.** For existing properties currently without hookup, before any permit is issued the person who makes the application shall pay a permit and inspection fee, the price of which will be set by resolution on the City Council. In addition there shall be a connection charge in the amount set by resolution of the City Council paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served. For new construction the permit fee and connection charge are a part of the building permit fee package.

*(Code of Iowa, Sec. 384.84)*

**90.08 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 of the plumbing rules and regulations found in the *International Plumbing Code*, whether those provisions are regulatory, procedural or for enforcement, and with the rules and regulations of the City.

**90.09 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a plumber or water service installer actually engaged in that business and bonded. The plumber shall provide a surety bond in the sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

**90.10 EXCAVATIONS.** All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

**90.11 INSTALLATION OF WATER MAINS.** Plans for the installation of any water main must be submitted to the Superintendent for review. If approved, the water main shall be installed under the direction supervision of and according to the guidelines established by the Superintendent. See appropriate sections of the Urbana, Iowa Design Standards. Fees for such installation shall be set by the Council by resolution.

**90.12 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:

1. **Independent Services.** No more than one house, building or premises shall be supplied from one tap unless 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. However, multi-unit buildings or premises shall be supplied from one tap, and the City shall treat all units at a single location as a single service for the purposes of metering and billing for services.
2. **Sizes and Location of Taps.** All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made near but not at the top of the pipe, at least thirty-six (36) inches apart. No main shall be tapped nearer than three (3) 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.

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

**90.13 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be Type K copper. Service lines must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing, and shall be connected to the water main with the corporation stop, curb valve and service box located below frost line.

**90.14 RESPONSIBILITY FOR WATER SERVICE PIPE.** All costs and expenses incident to the installation and connection of the water service pipe from the main to the building served shall be borne by the owner. All costs and expenses incident to the maintenance of the water service pipe from the building served up to and including the curb valve shall be borne by the owner; the City shall maintain the water service pipe from the curb valve to the main. 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.

**90.15 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 to be collected in the same manner as general property taxes.

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

**90.16 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. If the property owner wishes to have the shut-off valve in a hard-surfaced area, it is the property owner's responsibility to physically show the Superintendent that the shut-off valve is fully functional before and after pavement is placed. It is also the property owner's sole responsibility to keep the shut-off valve in good operating condition.

**90.17 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.

**90.18 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.

**90.19 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 remain improperly done after twenty-four (24) hours after the Superintendent's notification to the property owner or plumber of the deficiencies in the work, the Superintendent 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, and the plumber's bond or cash deposit shall be security for the assessment. 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])*

**90.20 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.

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

**90.22 LINE EXTENSIONS.** The City will construct extensions to its water lines to points within its service area but the City shall not be required to make such installations unless the customer pays to the City the entire cost of the installation as provided herein:

1. Contract. All line extensions shall be evidenced by a contract signed by the City and the person advancing funds for said extension.
2. Rights of City. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

**90.23 BACKFLOW PREVENTION VALVE.** A backflow prevention valve meeting City specifications shall be installed in each new service line, and in any service line which is repaired or replaced on the customer's side of the water meter. The customer shall have the backflow prevention valve inspected annually by a certified inspector, and proof of such inspection and the results of the inspection shall be provided to the Superintendent.

**90.24 CONNECTIONS OUTSIDE THE CITY.** The City, in the exercise of its discretion, may allow a connection to its public water system to any user outside the corporate limits of the City if the site is not furnished with pure and wholesome water from some other source. The City may refuse any request for a connection outside the City limits.

**90.25 FILLING BULK TANKS.** Unless a customer's water service is protected by an approved backflow prevention assembly for containment, no person shall fill any bulk tank with water not intended for human consumption. A "bulk tank" is any tank with a capacity exceeding fifty (50) gallons.

**90.26 BULK WATER SALES.** The City, in the exercise of its discretion, may provide water in bulk for use within or outside the corporate limits of the City upon such terms and conditions as it deems necessary or advisable. The City may refuse any request for water in bulk. Any fulfillment of a particular request shall not obligate the City to provide water in bulk to the same customer or to another customer desiring to use water for a similar purpose. The rate for bulk water sales shall be set by resolution on the City Council.

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## CHAPTER 91

### WATER METERS

91.01 Purpose	91.06 Remote Reader
91.02 Water Use Metered	91.07 Meter Repairs
91.03 Fire Sprinkler Systems- Exception	91.08 Right of Entry
91.04 Location of Meters	91.09 Accuracy Test
91.05 Meter Setting	91.10 Additional Meters for Water Not Entering Sewer System

**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 property owner.

**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 can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open. The user shall be assessed for the actual use of water through a fire sprinkler system.

**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 fullway gate or horizontal ball valve on both sides 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 REMOTE READER.** All new service meters and replacement meters shall have a remove reader unit attached to the water meter. The City shall be responsible for the proper installation of the unit. The customer or property owner shall be liable for any damages to any component of the unit which are the result of carelessness or negligence by the customer or property owner. Any customer or property owner desiring a remote reader shall make request for the reader at the Clerk's office. The full cost of the unit shall be paid to the City prior to any such installation.

**91.07 METER REPAIRS.** Whenever a water meter is found to be out of order the Superintendent shall have it repaired or replaced. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or that 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 ACCURACY TEST.** The Superintendent shall make a test of the accuracy of any water meter at any time when requested in writing by the customer, but not more often than once in eighteen (18) months. Such request shall be accompanied by a refundable deposit, the price of which shall be set by resolution of the City Council, guaranteeing payment of costs if found due. If the meter is found to overrun to the extent of two percent (2%) or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than six (6) months, plus the meter test deposit. If the meter is found to be accurate or slow, or less than two percent (2%) fast, the customer deposit shall be forfeited as the reasonable costs of the test, and the customer shall be liable for any deficiency over two percent (2%) up to six (6) months.

**91.10 ADDITIONAL METERS FOR WATER NOT ENTERING SEWER SYSTEM.** New Construction permits will be required to install 2 meters effective Jan 1, 2015. A onetime adjustment may be done to sewer charges, if water does not enter the sewer, at the discretion of the City Clerk when an agreement is made to install a 2<sup>nd</sup> meter. The adjustment will be applied to the account when an inspection is approved from the public works department. No adjustment will be made to sewer charges if a 2<sup>nd</sup> meter is not installed. An existing property may have one or more additional water meters on the same service line as the primary meter if the customer desires to use City water for a purpose that prevents the used water from entering the City sewer system. The water supplied through an additional meter is to be used only on the premises served. The City may require installation of a backflow prevention valve meeting City specifications if the service line is for non-potable water to be used in an underground irrigation system or other special use that presents a higher-than-average risk of water system contamination; applications for an additional meter in such situations will be reviewed by the Public Works Superintendent to determine whether a backflow prevention valve shall be required.

1. Fees and Installation Requirements. Before installing an additional water meter, a fee set by resolution of the City Council shall be paid to the City for a written permit to install an additional meter; said permit fee shall also include the required inspection by the City after the installation is completed. All work must be performed by a plumber meeting the requirements of Section 90.09. The meter shall be of the type and size approved by the City, shall be leased from the City at a cost to be established by resolution of the Council, and shall remain the property of the City.
2. Inspections. The installation shall be subject to inspection and approval by the Superintendent, and if the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work in such manner as is necessary to obtain approval. The property owner shall permit the Superintendent to enter the premises for inspection at all reasonable hours and on proof of authority. If the installation of a backflow prevention valve is required with the additional meter, the owner shall have the backflow prevention valve inspected annually by a certified inspector, who shall also inspect the plumbing supplying the additional meter, and proof of such inspection and the results of the inspection shall be provided to the Superintendent.

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## CHAPTER 92

### WATER RATES

92.01 Service Charges  
92.02 Rates For Service  
92.03 Rates Outside the City  
92.04 Billing for Water Service  
92.05 Service Discontinued  
92.06 Lien for Nonpayment  
92.07 Lien Exemption

92.08 Lien Notice  
92.09 Customer Deposits  
92.10 Temporary Vacancy  
92.11 Water Utility Fund  
92.12 Accounting and Audit  
92.13 Liability Limit for Billing Errors

**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.

1. Water service shall be furnished at a monthly rate within the City as set by resolution of the City Council. The Council shall review the rates annually and based on the results of the review, shall be authorized to increase the rates up to a maximum of 2.5% per year if deemed fiscally necessary.

2. The amount of water used and measured by an additional or second water meter at the same location shall be considered part of the usage billed to the established account for that location, and the total amount of water thus consumed shall be billed at the regular water usage rate as established from time to time, except that no minimum amount for water service will be charged for an additional or second meter.

**92.03 RATES OUTSIDE THE CITY.** The City, in the exercise of its discretion, may provide water service to any customer located outside the corporate limits of the City and may furnish water in bulk for use within or outside the corporate limits of the City, upon the terms, conditions and rates stipulated by the Council. In no case shall the rates be less than the minimum charges specified in Section 92.02. In addition, if the City responds to a request for water in bulk, a fee equal to a minimum of one hour's overtime rate of pay for the Public Works Director shall be charged, regardless of whether the Public Works Director or another City employee responds to the request.

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

1. **Meter Reading.** The City of Urbana shall read the water meters monthly, using the automated radio read system. The City of Urbana may require and therefore shall be granted access to the water meter.
2. **Meter Reading Discrepancies.** Utility bills will not be adjusted when meter reading is affected by leaks, inaccurate readings or other unknown causes. Utility bills may be adjusted if Public Works staff determines the meter to be defective. No adjustment will be made, however, if the defective status is due to damage to or misuse of the meter by the customer.
3. **Bills Issued.** The Clerk shall prepare and issue bills for combined service accounts before the first (1<sup>st</sup>) day of each month.
4. **Bills Payable.** Bills for combined service accounts shall be due and payable at the office of the Clerk by the 20<sup>th</sup> day of the same month. If the 20<sup>th</sup> day of the month is on a weekend or holiday, payment must be at the Clerk's office before the office opens on the next business day after the 20<sup>th</sup> to be considered paid on time. There shall be a service fee in an amount to be established by resolution of the Council for all checks that are returned unpaid.
5. **Late Payment Penalty.** Bills not paid by the 20<sup>th</sup> day of the month shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill. Customers are responsible for payment of bills by the due date, regardless of the date the customer receives the 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.** Each delinquent customer shall contain a notice that service will be discontinued if payment of the combined service account, including meter reading and late payment charges, is not received by the date specified in the notice of delinquency. Disconnect notices will be mailed on the 21<sup>st</sup> to customers with unpaid bills. Customers with unpaid bills on the last day of the month in which the bill is due will receive a delinquency posting stating the service will be disconnected on the next business day if no payment is received by 9:00 am, except that if that day of the month is on a Friday, a weekend or a holiday, service will be disconnected on the next business day after the Friday, weekend or holiday.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the owner or landlord shall be notified of the delinquency.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk and the Public Works Director 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 decision of the Clerk and Public Works Director 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. During regular business hours, a fee as set by resolution of the City Council shall be charged before service is restored to a delinquent customer. No reconnections will be made outside of regular business hours. The fee shall be added to the customer's account at the time that the Public Works Department employees receive the service order to disconnect service at the customer's address because the bill is unpaid. The disconnection shall be completed as directed regardless of requests to the contrary by the customer, and shall not be reconnected until all charges, penalties and fees are paid in full. Payment must be submitted to the City Clerk's office during regular business hours. Public Works Department employees shall not be authorized to accept such payments. If a service site will be temporarily vacant and the owner wishes to have billing for service discontinued during his/her absence, there will be a fee as set by resolution of the City Council charged to (i) shut the service off at the curb, and (ii) to reconnect service when the customer returns. If the water is not shut off at the curb, billing will continue during the customer's absence. 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. This lien may be imposed upon a property or premises even if services to the property or premises have been or may be discontinued as provided in this chapter.

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.** The lien for nonpayment shall not apply to a residential 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 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 water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

*(Code of Iowa, Sec. 384.84)*

**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. If the customer is a tenant and if the owner or landlord of the property 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 residential customer or prospective customer served a fifty dollar (\$50.00) deposit intended to guarantee the payment of bills for service. There shall be required from every commercial or industrial customer or prospective commercial or industrial customer served a one hundred-fifty dollar (\$150.00) deposit intended to guarantee the payment of bills for service. Upon termination of the use of the water service by that customer for that building, any balance of such deposit shall be returned to the customer without interest. A customer is eligible for a refund of such deposit, without interest, prior to the termination of the use of water service, if:

1. The customer is the record title holder of the location for which the deposit was paid and/or the person who paid the deposit and verifies this fact when said customer becomes eligible for a refund.

2. The customer has been billed for a period of twelve (12) consecutive months from the time water service commenced.
3. The customer has paid all utility bills in full on or before the due date of such bills for the twelve (12) consecutive months prior to the date of application for a refund of said deposit.
4. If the customer has not complied with the above requirements, the customer shall not be eligible for a refund until such time as the customer has established a record of twelve (12) consecutive months of compliance.
5. These conditions shall not apply to customers classed as "repeat offenders."

Customers that (i) do not currently have a deposit on file with the City and (ii) for any reason are not in compliance with any of the regulations which apply to being a customer in good standing and/or to maintaining service from the City may, at the discretion of the Council, be required to make a deposit in an amount to be determined by the Council to re-establish or to maintain service. The requirement to make a deposit under such conditions does not preclude the Council from establishing such other regulations as may be necessary to insure that the customer is in compliance with all applicable regulations. Customer deposits are not to be considered as a prepayment for utility services. Separate deposits shall be required for each customer and/or location served. If a customer who has paid a deposit fee desires to terminate use of services from one connection and desires to make application for use of services from another connection for which the customer would be required to pay a deposit fee, then the deposit fee already paid may remain on deposit for the new application if the customer pays the old account in full.

**92.10 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. The Council by resolution may set a fee for the temporary shut off and for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

**92.11 WATER UTILITY FUND.** All revenues and moneys derived from the operation of the water system shall be paid to and held by the City separate and apart from all other funds of the City and all of said sums and all other funds and moneys incident to the operation of said system, as may be delivered to the City, shall be deposited in a separate fund designated the "Water Utility

Fund," and the Council shall administer said fund in every respect in the manner provided by the Code of Iowa and all other laws pertaining thereto.

**92.12 ACCOUNTING AND AUDIT.** The City shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the water system. The Council shall cause to be made an audit by an independent audit concern of the books to show the receipts and disbursements of the water system whenever such audit is required by the State of Iowa or a majority of the Council.

**92.13 LIABILITY LIMIT FOR BILLING ERRORS.** If a billing error is made on a customer's combined services account that results in an overcharge, the City shall credit the customer's account in an amount equal to the aggregate overcharge amount for the six-month period preceding the date the error is found by the City or reported by a customer. The City shall not be liable for any other overcharges accumulated to that point. If a billing error is made that results in an undercharge, the City shall bill the customer's account in an amount equal to the aggregate undercharge amount for the six-month period preceding the date the error is found by the City or reported by a customer. The customer shall not be liable for any other undercharges accumulated to that point.

## CHAPTER 93

### PRIVATE WELLS

**93.01 When Permitted**

**93.02 Private Well Permit**

**93.03 Wells Now in Use; Renewals**

**93.04 Health and Safety Standards**

**93.05 Connection to Public Water System**

**93.06 Abandonment of Private Wells**

**93.01 WHEN PERMITTED.** Except as provided below, private wells and water systems shall not be maintained by any person within the City. Private wells and water systems shall be allowed only as set out in the following subsections:

1. If no part of a tract of land upon which a private well or water system is proposed is within 300 feet of a City water main.
2. If the property owner or individual applying for a private well permit can show that denying the permit and not allowing the private well or water system will cause the individual or property owner undue hardship. Undue hardship in this case means that the particular tract of land is so topographically situated that connection to the City water main system would be unfeasible and that the particular conditions causing the unfeasibility of the connection were in no way caused or contributed to by the property owner or permit applicant. The Council shall rule on all questions of undue hardship and their decision shall be final.

**93.02 PRIVATE WELL PERMIT.** All individuals or property owners who desire to construct or maintain a private well or water system shall first secure from the Clerk a private well permit. The contents of the permit application and the fee therefor shall be set by the Council from time to time by resolution.

**93.03 WELLS NOW IN USE; RENEWALS.** Individuals and property owner's now using and maintaining private wells or water systems within the City limits must apply for and be granted a private well permit. However, if any private well or water system is not used for a six-month period or if any private well or water system does not meet the health and safety regulations set forth herein, the permit for such premises shall not be renewed unless all provisions of this chapter are complied with.

**93.04 HEALTH AND SAFETY STANDARDS.** All private wells and water systems for which permits are granted shall meet the minimum health and safety standards as set forth by the appropriate City, County, State and Federal health officials. In addition, all permit holders shall grant to the appropriate City, County, State or Federal health official the right to inspect and test the private well and water system maintained upon the permit holder's property. Should the private well or water system so inspected not meet the minimum City, County, State or Federal health or safety standards for a continuous period of six months, the private well permit shall be revoked and the individual or property owner shall be required to make connection to the City's water system under the terms of this Code of Ordinances.

**93.05 CONNECTION TO PUBLIC WATER SYSTEM.** At no time and in no manner shall a private well be connected to any part of the City's water service system.

**93.06 ABANDONMENT OF PRIVATE WELLS.** All private wells or water systems that will not or cannot be used to supply water for any individual or property owner within the City shall be closed and rendered inoperable in accordance with Chapter 39 *Requirements for Properly Plugging Abandoned Wells* of the Iowa Administrative Code 567 (Environmental Protection) and all subsequent amendments or revisions thereof.

## CHAPTER 94

# PUBLIC WATER SUPPLY WELL FIELD PROTECTION

94.01 Purpose	94.07 Exceptions
94.02 Definitions	94.08 Determination of Locations Within Zones
94.03 Substances Regulated	94.09 Enforcement and Penalties
94.04 Maps of Zones of Influence	94.10 Inspections
94.05 Restrictions Within the Primary Protection Zone	94.11 Notice of Violation and Hearing
94.06 Restrictions Within the Secondary Protection Zone	94.12 Injunctive Relief

**94.01 PURPOSE.** The purpose of this chapter is to institute land use regulations and restrictions to protect the City's water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents of the City.

### 94.02 DEFINITIONS.

1. "Aquifer" means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. "Alluvium" means sand, clay, etc., gradually deposited by moving water.
3. "Contamination" means the presence of any harmful or deleterious substances in the water supply.
4. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
5. "Hazardous substances" means those materials specified in Section 94.03 of this chapter.
6. "Permitted pumping capacity" means the amount of water authorized to be pumped from a well during a one-year period.
7. "Person" means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
8. "Petroleum product" means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids and other similar products.

9. "Pollution" means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.
10. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
11. "Primary containment" means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
12. "Public utility" means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
13. "Secondary containment" means the level of product-tight containment external to and separate from the primary containment. Secondary containment consists of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
14. "Shallow well" means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.
15. "Toxic substance" means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.
16. "Water pollution" means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.
17. "Well" means a pit or hole sunk into the earth to reach a resource supply such as water.

18. "Well field" means a tract of land that contains a number of wells for supplying water.

19. "Zones of influence" means zones delineated by fixed radii around well heads, within which toxic substances will be regulated to protect the quality of the underground resource.

**94.03 SUBSTANCES REGULATED.** The materials regulated by this chapter are the following:

1. Petroleum products as defined in Section 94.02;
2. Substances listed in 40 CFR Part 261, subparts C and D, the Federal Hazardous Waste List;
3. Substances listed by the Iowa Labor Commissioner pursuant to Section 89B.12 of the Code of Iowa (*Hazardous Chemicals Risks - Right to Know*).

**94.04 MAPS OF ZONES OF INFLUENCE.**

1. Maps. Zones of influence maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file at City Hall. The location of all wells in the City supplying potable water to the City Water System are shown on the official Well Head Protection Map with Primary and Secondary Protection Zones indicated. Said maps shall be provided to the Clerk, Building Official, County Health Department and any other agency requesting said maps.

2. Map Maintenance. The zones of influence maps may be updated on an annual basis. The reasons for such an update may include, but are not limited to, the following:

- A. Changes in the technical knowledge concerning the aquifer;
- B. Changes in permitted pumping capacity of City well fields;
- C. Additions of wells to existing well fields;
- D. Designation of new well fields.

3. Zones of Influence. The zones of influence indicated on the zone of influence maps are as follows:

- A. Primary Protection Zone — an area extending 200 feet radially from any well supplying potable water to the City Water System.

B. Secondary Protection Zone — an area extending between 200 and 2,640 feet radially from any well supplying potable water to the City Water System.

#### **94.05 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.**

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited uses unless permits are granted by the Council under this section.

A. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use, and the Iowa Department of Natural Resources *Separation Distances from Wells* for sources of contamination is complied with.

B. Playgrounds.

C. Wildlife areas; open spaces.

D. Nonmotorized trails, such as biking, skiing, nature and fitness trails.

2. Prohibited Uses. The following uses are prohibited within the Primary Protection Zone (Zone A). Uses not listed are not considered permitted uses, unless specifically listed above under subsection 1 of this section.

A. Sewered or unsewered residential uses;

B. On-site private sewage systems, including but not limited to septic tanks;

C. Underground storage tanks;

D. Agricultural activities;

E. Pesticide and/or fertilizer storage and use;

F. Septage and/or sludge spreading;

G. Animal waste land spreading;

H. Animal waste facilities;

I. Animal confinement facilities, feedlots or other concentrated animal facilities;

J. Gas stations;

K. Vehicle repair establishments, including auto body repair;

L. Printing and duplicating businesses;

- M. Any manufacturing or industrial businesses;
- N. Bus or truck terminals;
- O. Landfills or waste disposal facilities;
- P. Wastewater treatment facilities, percolation ponds, dredge spoil deposits and similar facilities;
- Q. Spray wastewater facilities;
- R. Junk yards or auto salvage yards;
- S. Bulk fertilizer and/or pesticide facilities;
- T. Asphalt products manufacturing;
- U. Dry cleaning businesses;
- V. Salt storage and/or salt storage facilities;
- W. Electroplating facilities;
- X. Exterminating businesses;
- Y. Paint and coating manufacturing;
- Z. Hazardous and/or toxic materials storage;
- AA. Toxic and hazardous waste facilities;
- BB. Radioactive waste facilities.

3. Hazardous Substances. No person shall discharge or cause or permit the discharge of a hazardous substance (including herbicide and pesticide application) to the soils, groundwater or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Well Head Field Protection Officer. The use, handling, production and storage of hazardous substances is prohibited in the Primary Protection Zone except as provided under Section 94.08 of this chapter. All persons who presently engage in nonexempt activity within the protection zone who store, handle, use or produce any hazardous substances shall cease to do so within two (2) years from the effective date of the ordinance codified in this chapter unless granted a variance from the Department of Natural Resources or except as provided herein.

4. Uses Requiring Permits. The following uses are not allowed within the Primary Protection Zone unless a permit is issued for such use by the Council as provided under Section 94.07.

- A. Basement storage tanks;

B. Repair shops (excluding those prohibited under subsection 2 of this section).

#### **94.06 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.**

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone.

- A. All uses listed as permitted in the Primary Protection Zone.
- B. Sewered residential, commercial and/or industrial uses except those listed as prohibited uses in subsection 2 of this section.
- C. Above-ground storage tanks of 660 gallons or less.
- D. Basement storage tanks.

2. Prohibited Uses. The following uses are prohibited uses within the Secondary Protection Zone (Zone B). Uses not listed are not considered permitted uses unless specifically listed above under subsection 1 or granted a permit by the Council as under Section 94.07.

- A. Landfills;
- B. Wastewater treatment facilities;
- C. Spray wastewater facilities;
- D. Junk yard or auto salvage yards;
- E. Hazardous and toxic materials storage and use;
- F. Hazardous and toxic waste facilities;
- G. Radioactive waste facilities.

3. Uses Requiring Permits. The following uses are prohibited within the Secondary Protection Zone (Zone B) unless a permit is granted for such use by the Council as under Section 94.07.

- A. Underground storage tanks of any size;
- B. Private sewage systems;
- C. Agricultural activities;
- D. Pesticide and/or fertilizer storage and use;
- E. Septage and/or sludge spreading;
- F. Animal waste land spreading;
- G. Animal waste facilities;

- H. Animal confinement facilities;
- I. Gas stations;
- J. Vehicle repair establishments, including auto body repair;
- K. Printing and duplication businesses;
- L. Bus or truck terminals;
- M. Repair shops;
- N. Bulk fertilizer and pesticide facilities;
- O. Asphalt products manufacturing;
- P. Dry cleaning facilities;
- Q. Salt storage;
- R. Electroplating facilities;
- S. Exterminating shops;
- T. Paint and coating manufacturing;
- U. Tire and battery services;
- V. Garage and vehicular towing;
- W. Public and municipal maintenance garage.

#### **94.07 EXCEPTIONS.**

- 1. The following activities or uses are exempt from the provisions of this chapter:
  - A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
  - B. Silviculture uses and mosquito control spraying providing that said uses comply with the Iowa Commercial and Public Pesticide Applicators and Dealers Licensing through the Iowa Department of Agriculture. The use and storage of herbicides and pesticides for silviculture uses is prohibited within the Primary Protection Zone but is allowed within the Secondary Protection Zone.
  - C. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.

- D. Fire, police, emergency medical services, emergency management center facilities or public utility transmission facilities.
- E. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
- F. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
- G. Consumer products located in the home which are used for personal, family or household purposes.
- H. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
- I. The use of water treatment chemicals connected with the operation of the well.

2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance.

3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.

4. All written requests for permits allowed under Sections 94.05 and 94.06 of this chapter will be made to the Council and must include an environmental assessment report. Any permits granted will be made conditional and may include environmental and safety monitoring and/or a bond posted for future monitoring and cleanup costs. The exemption will be made void if environmental and/or safety monitoring indicates the facility is emitting any releases of harmful contaminates to the surrounding environment. The facility will be financially responsible for all environmental cleanup costs.

**94.08 DETERMINATION OF LOCATIONS WITHIN ZONES.** In determining the location of properties within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable Zone of Influence Map shall be governed by the restrictions applicable to that zone.
2. For properties having parts lying within more than one zone as reflected on the applicable Zones of Influence Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

#### **94.09 ENFORCEMENT AND PENALTIES.**

1. The Water Superintendent is designated as the Well Field Protection Officer unless another person is specifically designated by the Council to supervise the implementation and enforcement of this chapter.
2. No building permit shall be issued and no use or construction shall be allowed which is a violation of the Iowa Department of Natural Resources *Separation Distance from Wells*, a violation of this chapter or a source of contamination for a City well.
3. No new underground tanks will be allowed for auxiliary fuel storage in the Primary or Secondary Zones.
4. Any person who fails to comply with the provisions of this chapter shall be subject to provisions and penalties provided in Chapter 3 of this Code of Ordinances, entitled *Municipal Infractions*.

#### **94.10 INSPECTIONS.**

1. The Well Field Protection Officer or inspector shall have the power and authority to enter and inspect all buildings, structures and land within well field zones of influence for the purpose of making an inspection. Failure of a person having common authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open unsecured portion of the premises in order to conduct an inspection thereof.
3. The Well Field Protection Officer or inspector may inspect each well field annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within each well field zone. An emergency plan shall be prepared and filed with the County Emergency Management Agency indicating the procedures which will be followed in

the event of spillage of a regulated substance so as to control and collect all such spilled materials.

4. It is the duty of all law enforcement officers to assist in making inspections when such assistance is requested by the officer or inspector.

**94.11 NOTICE OF VIOLATION AND HEARING.** Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations;
4. State that said violations shall be corrected within a specified period of time as issued in writing by the inspector.

**94.12 INJUNCTIVE RELIEF.** If any person who engages in nonresidential activities stores, handles, uses and/or produces toxic substances within the well field zones of influence, as indicated on the Zones of Influence Maps, continues to operate in violation of the provisions of this chapter, then the City may file an action for injunctive relief in the court of jurisdiction.

## CHAPTER 94(A)

# WATER CONSERVATION

**94(A).01 Purpose**

**94(A).02 Conditions for Declaration of Water Warning or Water Emergency**

**94(A).03 Restrictions Imposed by Water Warning**

**94(A).04 Restrictions Imposed by Water Emergency**

**94(A).05 Appeal and Adjustment of Base Allocation**

**94(A).06 Penalties for Violations**

**94(A).07 Premium Rates**

**94(A).08 Reduction in Flow of Water to Any Person**

**94(A).01 PURPOSE.** In the event of drought conditions, equipment failure or chemical contamination, the water supply of the City may become significantly depleted so that there is an insufficient supply of water to meet all customary and usual demands. In the event of these conditions, the City Council may find, and may declare by resolution, a Water Warning or Water Emergency, defined below, during which time this chapter shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution, the City Council finds and declares the water shortage to be ended.

### **94(A).02 CONDITIONS FOR DECLARATION OF WATER WARNING OR WATER EMERGENCY.**

1. **Water Warning.** A Water Warning may be declared when a water shortage, equipment failure or chemical contamination poses a serious threat to the ability of the water system to meet present or future needs of its customers. A Water Warning may be imposed by resolution if any of the following factors are determined to exist by the City Council:

- A. Significant decrease in the pumping water level of wells or significant decrease in the recovery rate of the water level in wells.
- B. Chemical contamination.
- C. Major water system failure.
- D. Water system operating at 75% of pumping capacity.

2. **Water Emergency.** A Water Emergency may be declared when a water shortage, equipment failure or chemical contamination poses a severe and immediate threat to the ability of the water system to meet the needs of its consumers. The City Council shall, by resolution, impose a Water Emergency if the City Council determines that any of the following conditions exist:

- A. Serious decrease in the pumping water level of wells or serious decrease in the recovery rate of water level in wells.
- B. Serious chemical contamination.
- C. Major water system failure.
- D. System operating at 80% of pumping capacity.

**94(A).03 RESTRICTIONS IMPOSED BY WATER WARNING.** Under a Water Warning, no person shall use potable water of the municipal water service in violation of the following restrictions:

1. Outdoor watering or irrigation of lawns is prohibited.
2. Outdoor watering of any kind other than lawn watering is prohibited between the hours of 10:00AM and 6:00PM daily.
3. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than four years old, and new seedling or sod is permitted once per week, with an application not to exceed one inch of water per week.
4. Car washing is prohibited except in commercial establishments that provide that service.
5. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
6. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
7. No water shall be used for non-essential cleaning of commercial and industrial equipment, machinery and interior spaces.
8. Use of water-consuming air-conditioning equipment which consumes in excess of 5% of the water circulated in such equipment is prohibited.
9. Water reclaimed or recycled after some other primary use, such as water that has been used for washing or cooling, may be used without restriction.
10. Water derived from sources other than the City water system, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

**94(A).04 RESTRICTIONS IMPOSED BY WATER EMERGENCY.** Under a Water Emergency, all Water Warning use restrictions, as set forth in Section 3, shall be in effect. Under a Water Emergency, each customer shall be afforded a monthly maximum allocation of water, described in the chapter as a "Base Allocation."

1. Base Allocation for Residential Use. The base allocation of water for residential use in the City shall be 3,000 gallons per household per billing period.
2. Base Allocation for Commercial, Industrial or Institutional Use. The base allocation of water for commercial, industrial or institutional use shall be

established by resolution as a percentage of the average water used during the previous winter months (November through April) or by resolution as a percentage of the average water used during any consecutive three-month period within the preceding 12 months as determined by the City Council.

**94(A).05 APPEAL AND ADJUSTMENT OF BASE ALLOCATION.** Any customer of the City water service may file an appeal with the City Council to adjust the base allocation amount for said customer. The City Council may grant an adjustment to the applicant based upon reasonable and justifiable reasons, subject to the following guidelines:

1. Adjustment for Single-Family Residential Use. The base allocation for single-family residential use may be increased a maximum of 1,000 gallons per person per billing period for all persons residing at the applicant's residence for a period of more than 30 days before the date of the application.

2. Adjustment of Base Allocation for Commercial, Industrial, Institutional or Other Residential Uses. The base allocation may be increased for commercial, industrial, institutional or other residential customers based on the particular needs of the individual customer, as determined by the City Council or customer.

3. Any citizen or business owner of the City may appeal the adjustment or non-adjustment of a base allocation by addressing the City Council within 10 days of the decision, and the City Council shall have the authority to affirm, overrule or amend the previous determination.

**94(A).06 PENALTIES FOR VIOLATIONS.** The following penalties shall apply for violations of the restrictions set by any Water Warning or Water Emergency imposed by the City Council by Resolution:

1. First Violation. The City water service shall issue a written notice of violation to the customer violating the water use restrictions imposed by resolution.

2. Second Violation. For a second violation within a 12-month period, the violator will be charged double the rate of water consumed by the violator during each month that the violation occurs.

3. Subsequent Violations. For any subsequent violation with a 12-month period, the violator will be charged double the rate which otherwise would apply for each month that the violation occurs, and the City water service has the option to interrupt or restrict the water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of the Water Warning or Water Emergency restrictions will not occur.

Any customer charged with a violation of the Water Warning or Water Emergency restrictions may request a hearing before the City Council. The City Council may determine whether a violation did occur and may determine if the violation penalty should be affirmed, vacated or partially reduced.

**94(A).07 PREMIUM RATES.**

1. Premium Rate for Imprudent Consumption. In the event of a Water Emergency, each customer who consumes in excess of the base allocation, in addition to the water rates enacted by the City Council, shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation. This premium rate for imprudent consumption shall be in addition to all other penalties set forth in this section.

2. Adjustment of Charges for Premium Rate for Imprudent Consumption. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the City Council. The City Council may grant an adjustment of the premium rate charges in accordance with the following criteria:

A. Adjustments may be granted for over-consumption due to mechanical failures such as broken or leaky pipes or fixtures, but not over-consumption due to human carelessness.

B. The applicant shall furnish proof that the mechanical failure was repaired promptly. This proof shall be in the form of a licensed plumber's invoice, statement or materials receipt.

C. The adjustments shall be granted only for the relevant billing periods prior to the correction of the failure.

**94(A).08 REDUCTION IN FLOW OF WATER TO ANY PERSON.** From the direction of the City Council, the operator of the City water system is authorized, after giving written notice and reasonable opportunity for hearing before the City Council, to reduce the flow of water to any person determined to be using water in any manner not in accordance with the chapter during a Water Warning or Water Emergency.

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## CHAPTER 95

### SANITARY SEWER SYSTEM

95.01 Purpose  
95.02 Definitions  
95.03 Superintendent  
95.04 Prohibited Acts  
95.05 Sewer Connection Required

95.06 Service Outside the City  
95.07 Right of Entry  
95.08 Use of Easements  
95.09 Special Penalties

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare. They shall apply to all replacements of existing sewers as well as to new sewers being built in the City.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. “Building lateral” means the extension from the building sewer beginning five (5) feet outside the interface of the building wall and extending to the public sewer or other place of disposal.
3. “Building sewer” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building lateral, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person or business receiving sewer service from the City as well as the owner of the property served. Both sewer users and property owners are jointly and severally liable for the duties, responsibilities, liabilities and obligations set out in these chapters.
6. “Food Service Establishment (FSE)” means an operation or enterprise that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. Such facilities may include, but are not limited to, those that process meat or other food ingredients as an

intermediate step or for final human consumption, food service operations in a summer camp, residential substance abuse treatment facility, halfway house, correctional facility, school, restaurant, commercial kitchen, church, caterer, hotel, bars, hospital, care institution or similar facility.

7. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

8. “Industrial waste” or “process waste” means any solid, liquid or gaseous substance discharged, permitted to flow or escape from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource, as distinct from sanitary wastes.

9. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

10. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

11. “NPDES permit” means any permit or equivalent document or requirements issued by the administrator of the United States Environmental Protection Agency, or where appropriate, by the Director of the Iowa Department of Natural Resources or the Chairperson of the Iowa Environmental Protection Commission, to regulate the discharge of pollutants pursuant to the applicable sections of the Federal or State law.

12. “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.

13. “Person” means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such, jointly or severally.

14. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

15. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

16. “Repeat offender” means a customer who has had service disconnected three (3) times within a twelve-month period for nonpayment of said customer’s bill for sewer service. The Council, at their discretion, may require such a customer to place a service deposit with the City as a condition for receiving sewer service if the customer does not already have a deposit on record.
17. “Sampling manhole” means a structure located on a building lateral for the purpose of providing access to sample or measure wastewater discharges.
18. “Sanitary sewer” means a public sewer that conveys wastewater, and into which storm, surface, ground, and unpolluted waters are not intentionally admitted.
19. “Sanitary waste” means any solid, liquid, or gaseous substance discharged from residences, business buildings, institutions, commercial and industrial establishments contributed by reason of human occupancy, free from storm surface water and industrial waste.
20. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present. “Sewage” is used interchangeably with “wastewater.”
21. “Sewer” means a pipe or conduit for conveying sewage or other waste liquids, including storm, surface and groundwater drainage.
22. “Sewer service charges” means any and all charges, rates, fees, or rentals levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
23. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
24. “Standard methods” means examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water and Wastewater* published jointly with the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation.
25. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

26. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
27. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
28. “Unpolluted water” means water of quality equal or better than the applicable affluent criteria in effect under the State or Federal laws, or water that would not cause violation of receiving water quality standards under the applicable law and would not be benefited by discharge to the public sewer and wastewater treatment facilities.
29. “Wastewater pollution control plant” means the City-owned arrangement of devices and structures for treating wastewater. It is sometimes used as synonymous with “wastewater treatment plant” or “pollution control plant.”
30. “Water pollution control facilities” or “wastewater system” means the City-owned structures, equipment and processes required to collect, convey and treat wastewater in the City.
31. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 SUPERINTENDENT.** The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Manage, operate and maintain the City sewage system, and enforce all regulations pertaining to sewer services in accordance with these Sanitary Sewer chapters and the Urbana, Iowa Design Standards.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters, and establish any rules and regulations, to be approved by the Council, necessary to carry out the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.
4. Emergencies. In the event of an emergency, make temporary rules until due consideration is given by the Council.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within thirty (30) days after date of official notice from the City to do so 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 such sewage as may be conveyed to it. Billing

for sanitary sewer service will begin the date of official notice to connect to the public sewer.

*(Code of Iowa, Sec. 364.12 [3f])  
(IAC, 567-69.1[3])*

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

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

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

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

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

1. **Notice of Violation.** Any person found to be violating any provision of these chapters shall be served by the Superintendent with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof except as specified below. Such notice may be given by certified mail or by personal service. If given by certified mail, the notice shall be deemed given when mailed. The offender shall, within the time stated in such notice, permanently cease all violations specified therein.

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 and each day in which any such violation shall continue shall be deemed a separate offense.

3. **Liability Imposed.** Any person violating any such provision shall also be liable to the City for any damage, loss, cost or expense occasioned by reason of such violation.

A. A violation of any provisions shall be deemed to be a nuisance, and the City, after reasonable notice and opportunity for hearing, may in addition to or instead of criminal prosecution:

(1) Order necessary measures to correct and abate such violation, and the Superintendent or his/her designee is authorized to enter on private property to do so, and

(2) Order the service to the premises involved discontinued and authorize the Superintendent to disconnect any tapping or connections made to the wastewater system of the City.

B. In the event a violation creates an immediate hazard to the wastewater facilities or to the operation thereof, or to the health and safety of any person or to the preservation and protection of any property, or may prevent meeting the conditions of the NPDES permit, the Superintendent is authorized and directed to perform all necessary acts, without prior notice or hearing, to correct and abate such violations, and may enter on private property to do so.

C. The cost of any measures to return any sewer or structure to its condition prior to the corrective acts of the Superintendent shall be borne by the person seeking to discharge to the sanitary sewer. Any damages to public or private property and damages, whether direct or indirect, due to the loss of production, shall be borne by the person whose discharge was alleged to have created an immediate hazard, and thereby to have caused the subsequent corrective action.

D. The cost of any corrective measures required or permitted under the provisions of these chapters shall be a lien on the property served by the wastewater facility in connection with which such violation has occurred and shall be levied and collected by the City in the same manner as general property taxes after certification of the cost to the County Treasurer.

E. In addition to any other remedies provided for, the City may bring suit to collect any sums due it, including user charges,

from the person or persons incurring the liability for the payment of such charges.

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## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Permit Fee and Connection Charge  
96.03 Plumber Required  
96.04 Connection Requirements  
96.05 Sewer Tap

96.06 Inspection Required  
96.07 Property Owner's Responsibility  
96.08 Abatement of Violations  
96.09 Illegal Connections

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

1. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent.
2. Any connection to the sewer system shall be subject to the rules and regulations established by the City and to the charges, rates, rents, fees and assessments which are or may be established by the Council.
3. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.
4. No work shall commence until the permit application has been reviewed and approved and all applicable fees have been paid. All construction shall be conducted in the presence of the Superintendent or an appointed representative.
5. A two-year maintenance bond shall be placed on file upon completion and prior to acceptance of the work, if deemed necessary by the Superintendent.

**96.02 PERMIT FEE AND CONNECTION CHARGE.** For existing properties currently without hookup, the person who makes the application shall pay a fee as set by resolution of the City Council to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In

addition, there shall be a connection charge as set by resolution of the City Council paid to reimburse the City for costs borne by the City in making sewer service available to the property served. For new construction the permit fee and connection charge are a part of the building permit fee package.

**96.03 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the minimum sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

**96.04 CONNECTION REQUIREMENTS.** The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *International Plumbing Code*, the laws of the State and other applicable rules and regulations of the City. Additional City requirements include:

1. Backflow Prevention Valve. A valve meeting City specifications shall be installed by the property owner in the property owner's extension on all new sanitary sewer hookups to prevent backflow from the sanitary sewer main, unless for good cause shown the Council determines the same to be unnecessary.
2. Moving of Building or Structure. When any building or structure is razed or moved, and the sewer service is discontinued, all sewer connections shall be properly stopped or cut off at the curb line,

according to the specifications of the City and approved by an inspector of the City.

**96.05 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a "Y" saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

**96.06 INSPECTION REQUIRED.** No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *International Plumbing Code*.

**96.07 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**96.08 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 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])*

**96.09 ILLEGAL CONNECTIONS.** Any connections which discharge prohibited materials shall be considered illegal and shall be subject to immediate removal by the owner of the premises so connected and at such owner's expense. Should the owner of such an illegally connected premises fail to remove the connection within thirty (30) days, the Superintendent shall cause the connection to be removed and the cost thereof shall be billed to the owner of the premises.

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## CHAPTER 97

### USE OF PUBLIC SEWERS

97.01 Storm Water	97.07 Terms and Conditions of Discharge Permit
97.02 Surface Waters Exception	97.08 Change of Discharge Permit Terms and Conditions
97.03 Prohibited Discharges	97.09 Transfer of Permit Prohibited
97.04 Restricted Discharges	97.10 Termination
97.05 Permit Required	97.11 Monitoring
97.06 Restricted Discharges - Powers	

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer or natural outlet.

**97.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to deteriorate any sewer, injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to the following list indicating maximum concentrations allowable in the wastes discharged to the public sewer.

Substance	Maximum Concentration (mg/l)
Arsenic	.3 mg/l
Cadmium	1.0 mg/l
Chromium (Hexavalent)	2.5 mg/l
Copper	4.6 mg/l
Cyanide	0.2 mg/l
Lead	1.6 mg/l
Mercury	.0026 mg/l
Nickel	3.6 mg/l
Total Chromium	5.0 mg/l
Zinc	5.0 mg/l

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes acid or alkaline in reaction and having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the City.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

14. Other. Any water or wastes containing any of the constituents listed in this chapter or any other objectionable or toxic substances.

**97.05 PERMIT REQUIRED.** Any person discharging the described substances, materials, waters or wastes as defined in Section 97.04 of this chapter shall file an application for a discharge permit with the Superintendent. The application shall contain the following information:

1. Names and address of owner.
2. Title of official making such application.
3. Location of plant or business.
4. The nature of business conducted in such facility.
5. The volume of anticipated waste mixture and sewage discharged by each plant or business.
6. The average daily number of employees employed in each plant by shifts, or the average daily patrons served.
7. The source of water supply of each plant or business and the volume of water used by each such facility daily, specified separately as to each source.
8. Such additional information as is deemed applicable to ascertain the volume, nature and composition of waste so discharged.

**97.06 RESTRICTED DISCHARGES - POWERS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers (all food service establishments (FSE) shall be required to install grease interceptors as a minimum);
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.07 TERMS AND CONDITIONS OF DISCHARGE PERMIT.**

1. Terms. All wastewater discharge permits shall be expressly subject to all provisions of this chapter and all rates and charges established by the City. As long as there is full compliance, all permits shall be valid for two years and must be renewed thereafter, provided that the Superintendent may establish renewal dates from 12 to 24 months after issuance of the initial permits. All permits shall contain the following terms:

A. The daily average and maximum wastewater flow volumes.

B. The average and maximum limits on the constituents of the discharger's wastewater.

2. Conditions. Wastewater discharge permits may contain any or all of the following conditions:

A. For all Food Service Establishments (FSE) discharges of fats, oils and grease to meet the terms of the permit, the following is required:

(1) Grease interceptors and grease traps shall be installed at the expense of the owner or operator of the FSE or owner of the building or facility in which the FSE is located which is contributing wastewater to the sewage treatment plant.

(2) All wastewater streams containing fat, oil or grease (FOG) or reasonably likely to contain FOG within FSEs or other FOG generating operations shall be directed into one or more appropriately sized grease interceptors before discharge into the sewage treatment plant. Grease interceptors shall be either sized by adding the peak design flow rates for all fixtures leading into the grease interceptor and allowing a minimum retention time of thirty (30) minutes or as follows:

**Grease interceptor sizing:**

## 1. Peak meals per hour

- a. Seating capacity of FSE \_\_\_\_\_
- b. Occupancy of FSE \_\_\_\_\_ \*
- c. Seating or occupancy x meal factor of 1.3 (45 minute meal) = peak meals per hour

\* Church: include all areas used for meal service

\* Assisted living / nursing facility: equal to maximum number of residents (per state license)

## 2. Waste flow rate, gallons of flow

- a. Commercial, equipped kitchen with dishwasher and one garbage disposal 7
- b. Commercial, equipped kitchen with dishwasher and no garbage disposal 6
- c. Commercial, equipped kitchen with no dishwasher and one garbage disposal 6
- d. Commercial, equipped kitchen with no dishwasher and no garbage disposal 5
- e. Single service kitchen 2
- f. Each additional garbage disposal, add one (1) gallon

## 3. Retention time, hours

- a. Commercial kitchen 2.5
- b. Single service kitchen 1.5

## 4. Storage factor

- a. Commercial kitchen up to 8 hours of operation 1
- b. Commercial kitchen up to 16 hours of operation 2
- c. Commercial kitchen up to 24 hours of operation 3
- d. Single service kitchen 1.5

Peak meals per hour X Waste flow rate X Retention time X Storage factor = Interceptor size

(3) Concrete grease interceptors whether precast or poured in place, shall be designed and manufactured in accordance with ASTM C 1613-08 Standard Specification for precast concrete grease interceptor tanks or IAPMO/ANSI Z1001 Grease Interceptors and shall be installed in accordance with the codes adopted by Urbana, Iowa. Where no code is adopted, the construction and installation shall be in accordance with the Iowa State plumbing code and the Superintendent. Grease interceptors using materials other than concrete require the approval of

the Superintendent and shall comply with the conditions of such approval, if any.

(4) The Superintendent shall inspect each grease interceptor installation, shall review all relevant information regarding the rated performance of the grease interceptor and the building plan and facility site plan for the building where the interceptor has been installed and shall approve such grease interceptor installation upon determination that the grease interceptor meets all applicable standards and requirements.

(5) Grease interceptors shall have a minimum capacity of one thousand (1,000) gallons and shall not exceed five thousand (5,000) gallons for a single unit. Where a capacity greater than three thousand (3,000) gallons is required, several smaller units shall be installed in series, however, the capacity shall not exceed ten thousand (10,000) gallons for any single series of interceptors without the approval of the Superintendent.

(6) Grease interceptors shall be installed outside the building housing the FSE and below surface grade and shall have access manholes, with a minimum diameter of twenty-four (24) inches, over each chamber and sanitary tee. Access manholes shall extend from the great interceptor to at least the finished surface grade and be designed and maintained to prevent storm or surface water inflow and groundwater infiltration. The manholes shall also have readily removable covers to facilitate inspections and grease removal.

(7) Sewer lines which are not grease laden, which are not likely to contain FOG, or which contain sanitary wastes, shall not be connected to a grease interceptor.

(8) Grease interceptors shall be equipped with an assessable discharge sampling port with a minimum six (6) inch diameter, which shall extend from the grease interceptor to at least the finished surface grade.

(9) Where grease interceptors are shared by more than one FSE, the building owner shall be the responsible party for the record keeping and cleaning the interceptor.

(10) The owner or operator of an FSE shall:

(a) Provide, operate and maintain, at its expense, safe, accessible monitoring facilities (i.e. manhole), and shall make such monitoring facilities available for inspection and for sampling and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis.

(b) Shall allow personnel authorized by the Superintendent to enter upon or into any building, facility or property housing an FSE at any reasonable time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review in accordance with this section.

(c) Shall, upon request by the Superintendent, open any grease interceptor for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place, including but not limited to, baffles influent and effluent tees, and that all grease interceptors and related equipment and piping is maintained in efficient operating conditions.

(d) Shall accommodate compliance inspections and sampling events by the authorized representatives of the City. Staff may conduct routine inspections and sampling events of any FSE. Non-routine inspection and sampling events shall occur more frequently when there is a history of non-compliance with this section and when blockages occur in the City's sanitary sewer system downstream of the FSE.

(e) Shall have grease interceptor(s) pumped and cleaned on an annual basis, and provide records to the City of such maintenance annually.

B. For other discharges which will require pretreatment to meet the terms of the permit:

(1) Facilities Approval. Plans, specifications and other pertinent information relating to such treatment facilities shall be submitted for the approval of the City and no construction of such facilities shall be commenced until said approval is obtained in writing.

(2) Facilities Maintenance and Records. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense and shall be subject to periodic inspection by the Superintendent. The owner shall maintain operating records and shall submit to the Superintendent a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities.

C. Limits on rate and time of discharge or requirements for flow regulation and equalization.

D. Requirements for sampling manhole, including City access to such facilities.

E. Monitoring program which may include: sampling locations; frequency and method of sampling; number, types and standard of tests; and establishing a reporting schedule. The discharger assigned a monitoring program in conformance with this chapter shall pay all applicable City charges.

F. Submission of technical reports or discharge reports.

G. Maintenance of plant records relating to wastewater discharges, as specified by the Superintendent and affording City access thereto.

H. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter or the terms and conditions of the permit.

#### **97.08 CHANGE OF DISCHARGE PERMIT TERMS AND CONDITIONS.**

The Superintendent may change the terms and conditions of a wastewater discharge permit, including changing the average limits of constituents of the wastewater, from time to time as circumstances may require. The Superintendent shall allow a discharger reasonable time to comply with any required changes in the permit except that a change in average limits of wastewater strength shall immediately affect calculation of the sewage service charge.

#### **97.09 TRANSFER OF PERMIT PROHIBITED.** A wastewater discharge permit shall not be assigned or transferred.

#### **97.10 TERMINATION.** The Superintendent may terminate any wastewater discharge permit for violation of the terms and conditions of the permit or the

provisions of this chapter. A permit shall be terminated by the Superintendent if the discharger exceeds the maximum allowable discharge limits. A person whose permit has been terminated shall apply for a new permit within thirty (30) days of notice of termination. Any person whose permit has been terminated but is temporarily allowed to continue to discharge shall pay wastewater service charges based upon the former permit until a new permit has been applied for, approved and issued.

**97.11 MONITORING.** All users of the water pollution control facilities may be subject to having their waste discharge monitored by the City. All permit users and special rate users shall have their process waste discharge monitored not less than annually by the City. The frequency of monitoring shall be stipulated in the discharge permit and shall be carried out in the following manner:

1. Sampling Manhole. Any permit user discharging wastes into the City sewers shall, if required by the Superintendent, construct a suitable sampling manhole, downstream from any treatment, storage tank or other approved works, to facilitate observations, continuous measurements and sampling of all such wastes from the user. Continuous sampling shall be by an automatically operated sampling device. Continuous flow measurement shall be indicating, recording and totalizing. Where pH control is necessary, or where other waste characteristics require special control, suitable waste monitoring equipment shall be installed by the user to monitor and record those waste characteristics being controlled. The sampling manhole shall be accessible to authorized City personnel on a twenty-four hour basis and it shall be constructed in accordance with plans approved by the Superintendent. The control structure shall be installed by the owner at the owner's expense and shall be maintained by the owner in a safe, accessible and operating condition at all times. In its sole discretion, the City may waive the requirement for a sampling manhole if the user agrees to pay the wastewater service charges required under Chapter 99 and that the strength of waste on which the service charge is based tests of comparable strength wastes discharged by similar industries, if such information is available; if not, by such other methods as the City may wish to employ. Whatever method is used for finding the strength of the waste, the determination of the City shall be binding as a basis for charges.
2. Flow Measurement. The volume of flow used in computing sewer service charges shall be based upon actual *in situ* flow measurements. In the event the City finds it is not practical to measure either the actual sewage and industrial waste flow or the flow of diverted

water, it may at its discretion approve some other manner of computing or estimating the amount of water diverted from or discharged to the City sewerage system. Also, in the event that the City finds it is not practical to make an actual measurement of the waste discharge from the premises of the customer into the City sewerage system, the City may at its discretion accept as the volume of waste discharged from the premises that amount shown by water meters of the City. Where a user discharging wastes into the City sewer system procures any part or all of the user's water supply from sources other than the City water system, all or part of which is discharged into the City sewer system, the user discharging said waste shall install and maintain, at said user's expense, water meters of a type approved by the Superintendent for the purpose of determining the proper volume of flow to be charged.

3. Testing Wastes. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Samples for testing shall be collected at the sampling manhole. In the event that no sampling manhole has been required, the sampling manhole shall be considered to be the nearest downstream control structure in the City 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 water pollution control facilities and to determine the existence of hazards to life, limb and property.

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## CHAPTER 98

# ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited  
98.02 When Required  
98.03 Compliance with Regulations  
98.04 Permit Required

98.05 Discharge Restrictions  
98.06 Maintenance of System  
98.07 Systems Abandoned  
98.08 Disposal of Septage

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

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

**98.02 WHEN REQUIRED.** When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter. No such system shall be installed or constructed without first obtaining a permit from the Superintendent.

*(IAC, 567-69.1[3])*

**98.03 COMPLIANCE WITH REGULATIONS.** The type, capacity, location and layout of an 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 to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the City.

*(IAC, 567-69.1[3])*

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

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

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

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

## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Rate  
99.03 Special Rates  
99.04 Payment of Bills  
99.05 Lien for Nonpayment

99.06 Customer Deposits  
99.07 Special Agreements Permitted  
99.08 Use of Funds  
99.09 Accounting and Audit

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service fees as hereinafter provided.

*(Code of Iowa, Sec. 384.84)*

#### 99.02 RATE.

1. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount and rate of water consumed and a rate as set by resolution of the City Council. The Council shall review the rates annually and based on the results of the review, shall be authorized to increase the rates up to a maximum of 2.5% per year if deemed fiscally necessary.
2. No charge for sewer usage shall be made for water measured through an additional or second meter.

**99.03 SPECIAL RATES.** Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution. Special rates may be set in the following circumstances, among others:

1. Where the nature of the use of City water is such that in the opinion of the Superintendent the resulting sewage or industrial waste has characteristics making it more or less difficult to purify than ordinary domestic waste.
2. Where a major portion of the City water consumed is not polluted and/or is not discharged into or does not reach the City.
3. Where privately produced water supplies are discharged directly or indirectly into the City sewer. It is the duty of every person responsible for the production of such private water supply to report

forthwith to the Superintendent and further to cooperate with the Superintendent in the determination of the quantity and character of the waste originating from each such respective private water supply. The Superintendent shall designate in each such special rate case any necessary means of measurement of such private water supply and resulting sewage flow, which meter or other means of measurement shall be installed by and at the expense of the user upon written order of the Superintendent.

**99.04 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.05 LIEN FOR NONPAYMENT.** 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)*

**99.06 CUSTOMER DEPOSITS.** There shall be required from every residential customer or prospective customer served a forty-nine dollar and fourteen cent (\$49.14) deposit intended to guarantee the payment of bills for service. There shall be required from every commercial or industrial customer or prospective commercial or industrial customer served a ninety-eight dollar and twenty-eight cent (\$98.28) deposit intended to guarantee the payment of bills for service. Upon termination of the use of the sewer service by that customer for that building, any balance of such deposit shall be returned to the customer without interest. A customer is eligible for a refund of such deposit, without interest, prior to the termination of the use of sewer service, if:

1. The customer is the record title holder of the location for which the deposit was paid and/or the person who paid the deposit and verifies this fact when said customer becomes eligible for a refund.
2. The customer has been billed for a period of twelve (12) consecutive months from the time sewer service commenced.

3. The customer has paid all utility bills in full on or before the due date of such bills for the twelve (12) consecutive months prior to the date of application for a refund of said deposit.
4. If the customer has not complied with the above requirements, the customer shall not be eligible for a refund until such time as the customer has established a record of twelve (12) consecutive months of compliance.
5. These conditions shall not apply to customers classed as "repeat offenders."

Customers that (i) do not currently have a deposit on file with the City and (ii) for any reason are not in compliance with any of the regulations which apply to being a customer in good standing and/or to maintaining service from the City may, at the discretion of the Council, be required to make a deposit in an amount to be determined by the Council to re-establish or to maintain service. The requirement to make a deposit under such conditions does not preclude the Council from establishing such other regulations as may be necessary to insure that the customer is in compliance with all applicable regulations. Customer deposits are not to be considered as a prepayment for utility services. Separate deposits shall be required for each customer and/or location served. The deposit may be waived at the customer's request if the customer has a current City utility account, previously paid a connection fee and is changing his/her address within the City of Urbana.

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

**99.08 USE OF FUNDS.** All revenues and moneys derived from the operation of the sewer system shall be paid to and held by the City separate and apart from all other funds of the City and all of said sums and all other funds and moneys incident to the operation of said system, as may be delivered to the City, shall be deposited in a fund designated the "Sewer Utility Fund," and the Council shall administer said fund in every respect in the manner provided by the Code of Iowa and all other laws pertaining thereto.

**99.09 ACCOUNTING AND AUDIT.** The City shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system. The Council shall cause an audit of the books to be made by the

State Auditor or an independent auditing concern to show the receipts and disbursements of the sewer system whenever necessary to satisfy the requirements of the State of Iowa or whenever deemed necessary by the Council.

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.08 Littering Prohibited
105.02 Definitions	105.09 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.10 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.11 Waste Storage Containers
105.05 Open Burning Restricted	105.12 Prohibited Practices
105.06 Separation of Yard Waste Required	105.13 Sanitary Disposal Project Designated
105.07 Segregation of Recyclable Materials Required	

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection and disposal of solid waste and recyclable material 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 and/or recyclable material 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 which are used, or are intended to be used, for living, sleeping, cooking and eating.

4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

*(IAC, 567-100.2)*

5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, 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. “Recyclable material” means solid waste material that can be recycled and reused, consistent with the waste management hierarchy under Section 455B.301A of the Code of Iowa, and contained in the local recycling program plan to meet the State volume reduction goal pursuant to Section 455D.3 of the Code of Iowa. Materials include but are not limited to plastic, paper and metal.

9. “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)*

10. “Repeat offender” means an owner who has had service disconnected three (3) times within a twelve-month period for nonpayment of such owner’s bill for solid waste collection and disposal service. The Council, at their discretion, may require such a customer to place a service deposit with the City as a condition for receiving solid waste collection and disposal service if the customer does not already have a deposit on record.

11. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

12. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

*(IAC, 567-20.2[455B])*

13. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

*(IAC, 567-100.2)*

14. “Sanitary disposal” means a method of treating solid waste and/or recyclable materials so that it does not produce a hazard to the public health or safety or create a nuisance.

*(IAC, 567-100.2)*

15. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which 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)*

16. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

**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. Landscape Waste. The disposal by open burning of landscape waste originating on the premises is permitted only during the designated periods each spring and fall. The spring burning period shall begin the first Friday of May and shall continue for four (4) consecutive weekends. The fall burning period shall begin on the first Friday of October and shall continue for four (4) consecutive weekends. Weekends are defined as Friday, Saturday and Sunday. Burning may commence between the hours of 7:00 am and 7:00 pm on the designated days. If the weather is unfavorable during this period the Mayor or the Mayor's designee may extend the burning period without consent of the Council. 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])

4. 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])

5. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

6. 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])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

*(IAC, 567-23.2[2])*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable labeled containers or bundled as prescribed by the hauler with an appropriate tag attached and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

**105.07 SEGREGATION OF RECYCLABLE MATERIALS REQUIRED.** Recyclable materials shall be segregated from other solid waste when set out for collection. It is illegal to include any recyclable materials in any accumulation of solid waste set out for collection. All recyclable materials set out for collection shall be contained in such containers as shall, from time to time, be prescribed or permitted by resolution of the Council.

**105.08 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)*

**105.09 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 dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

*(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)*

**105.10 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the

Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2)*

*(IAC, 567-102.14[2] and 400-27.14[2])*

**105.11 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 be reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than twenty (20) gallons or more than thirty-five (35) gallons in nominal capacity, and shall be leakproof and waterproof. The total weight of any container and contents shall not exceed forty (40) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

- (1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;
- (2) Have handles, bails or other suitable lifting devices or features;
- (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;
- (4) Be of lightweight and sturdy construction.

Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where an excessive amount of refuse accumulates and where its storage in portable

containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

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; 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 before five o'clock (5:00) p.m. of the day prior to the day on which the collection is scheduled and shall be promptly removed from the curb line following collection.
4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

#### **105.12 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 or deposit in any solid waste containers refuse or residential waste not generated on the premises where such collection will take place.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

5. Origin of Solid Waste. No refuse, garbage or trash will be accepted from outside the City limits.

**105.13 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Benton County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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## CHAPTER 106

### COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collection Vehicles  
106.03 Loading  
106.04 Frequency of Collection  
106.05 Bulky Rubbish

106.06 Right of Entry  
106.07 Contract Requirements  
106.08 Collection Fees  
106.09 Lien for Nonpayment  
106.10 Customer Deposits

**106.01 COLLECTION SERVICE.** The City shall provide by contract for the collection of all solid waste and recyclable materials 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 leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste and/or recyclable material 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 and recyclable material shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors and recyclable material collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste and recyclable material therefrom as required by this

chapter; however, solid waste and recyclable material collectors shall not enter dwelling units or other residential buildings.

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

**106.08 COLLECTION FEES.** The collection and disposal of solid waste and recyclable material 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 2nd, 449)*

1. Schedule of Fees. The fees for solid waste and recyclable material collection and disposal service, used or available, are:
  - A. Residential rates are \$11.75 per dwelling unit per month, which shall include regular garbage as well as recyclables collection once per week and yard waste collection twice a month.
  - B. Commercial rates are \$18.75 per establishment per month except that special rates as agreed upon by the collector and the City shall apply to those establishments that have unusual or larger than normal volumes of materials to be collected.
2. Landfill and Administrative Charge. In addition to the established monthly rate for each dwelling unit or commercial establishment, there shall be an additional landfill charge of \$5.50 per month and an administrative charge of \$.50 per month. One-half of the revenue from the collection of the administrative fee shall be used to fund an annual City cleanup day with parameters to be determined by the collector and the Council. If for any reason a residential unit or commercial establishment is not included under the terms of the contract with the collector with whom the City has a contract, such unit or establishment

shall still be subject to payment of the monthly landfill and administrative charges.

3. **Other Classes of Property.** Rates for collection for any additional classes of property to be served shall be established as necessary during the course of the City's contract with the collector.

4. **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 and recyclable material collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.09 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste and recyclable material 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)*

**106.10 CUSTOMER DEPOSITS.** There shall be required from every residential customer or prospective customer served a thirty-five dollar and twenty-five cent (\$35.25) deposit intended to guarantee the payment of bills for service. There shall be required from every commercial or industrial customer or prospective commercial or industrial customer served a sixty-dollar (\$60.00) deposit intended to guarantee the payment of bills for service. Upon termination of the use of the solid waste collection service by that customer for that building, any balance of such deposit shall be returned to the customer without interest. A customer is eligible for a refund of such deposit, without interest, prior to the termination of the use of solid waste collection service, if:

1. The customer is the record title holder of the location for which the deposit was paid and/or the person who paid the deposit and verifies this fact when said customer becomes eligible for a refund.

2. The customer has been billed for a period of twelve (12) consecutive months from the time solid waste collection service commenced.

3. The customer has paid all utility bills in full on or before the due date of such bills for the twelve (12) consecutive months prior to the date of application for a refund of said deposit.
4. If the customer has not complied with the above requirements, the customer shall not be eligible for a refund until such time as the customer has established a record of twelve (12) consecutive months of compliance.
5. These conditions shall not apply to customers classed as "repeat offenders."

Customers that (i) do not currently have a deposit on file with the City and (ii) for any reason are not in compliance with any of the regulations which apply to being a customer in good standing and/or to maintaining service from the City may, at the discretion of the Council, be required to make a deposit in an amount to be determined by the Council to re-establish or to maintain service. The requirement to make a deposit under such conditions does not preclude the Council from establishing such other regulations as may be necessary to insure that the customer is in compliance with all applicable regulations. Customer deposits are not to be considered as a prepayment for utility services. Separate deposits shall be required for each customer and/or location served. The deposit may be waived at the customer's request if the customer has a current City utility account, previously paid a connection fee and is changing his/her address within the City of Urbana.

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## CHAPTER 110

### NATURAL GAS FRANCHISE

110.01 Franchise Granted  
110.02 Modern System Required  
110.03 Safe Operation Required  
110.04 Construction and Excavations

110.05 Extension of Service  
110.06 Indemnification of City  
110.07 Rates  
110.08 Successors and Assigns

**110.01 FRANCHISE GRANTED.** The City hereby grants unto Iowa Electric Light and Power Company, an Iowa corporation, its successors and assigns, hereinafter called the Grantee, a nonexclusive franchise and right for a period of twenty-five (25) years from and after the date the ordinance codified by this chapter became effective, to erect, construct, reconstruct, maintain and operate within the corporate limits of the City, as the same are now or hereafter may be located or extended, a natural gas plant, or plants, and/or a plant, or plants, for the manufacturing and processing of any and all kinds of gas, and to erect, construct, reconstruct, maintain and operate within said corporate limits distributing systems for the distribution of natural gas, or any and all other types and kinds of gas, whether said plant, or plants, and distribution systems have been heretofore or hereafter may be constructed, together with the franchise and right to enter upon and to use and occupy the streets, avenues, alleys, bridges and other public places of the City as the same now are or hereafter may be located or extended, for the purpose of constructing, reconstructing, maintaining and operating therein, thereon and thereunder systems for the distribution of natural gas and/or any and all other kinds of gas, consisting of mains, pipes, pipe lines, distributing lines, conduits and other equipment, appurtenances and construction necessary or incident to said distribution systems, and together with the franchise and right to supply, distribute and sell natural gas and/or any and all other kinds of gas to the City and to the inhabitants thereof and others within and without the corporate limits of the City for any and all purposes, and upon such terms and conditions and under such restrictions and regulations as are hereinafter contained, and such other reasonable rules and regulations as hereafter may be provided by the rule-making body having jurisdiction thereof.

**110.02 MODERN SYSTEM REQUIRED.** The Grantee shall maintain within the City a modern gas service, with sufficient capacity to meet the reasonable requirements of its patrons, and shall supply same in such a manner as to render efficient service unless prevented by an act of God, a public enemy, a governmental authority, or by a cause not under the control of the Grantee, and in any such event, the Grantee may adopt reasonable rules and regulations

governing the volume of gas which it shall be required to furnish its patrons, or any class of patrons.

**110.03 SAFE OPERATION REQUIRED.** The systems for the distribution of gas shall be constructed, maintained and operated by the Grantee in such a manner as not to endanger persons or property, and so as not to interfere unreasonably with any improvements the City may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, avenues, alleys, bridges, or other public places, and so as not to interfere with the sewers, drainage or water system of the City.

**110.04 CONSTRUCTION AND EXCAVATIONS.** Whenever the Grantee, in erecting, constructing or maintaining said distribution systems, shall take up or disturb any pavement or sidewalks, or make any excavations in the streets, avenues, alleys, bridges or public places of the City, said excavations shall at once be refilled and the pavement, sidewalk, or other improvement replaced to the satisfaction of the City officials, and in case of failure to do so as promptly as is practical, the City may do so at the expense of the Grantee.

**110.05 EXTENSION OF SERVICE.** The Grantee shall extend its mains as provided by its most current gas tariff and applicable rules promulgated by the governing regulatory body for customers in all cases where bona fide customers apply in writing to be supplied with gas.

**110.06 INDEMNIFICATION OF CITY.** The Grantee shall hold the City harmless from any and all causes of action, litigation or damages which may arise through or by reason of the construction, reconstruction, maintenance and operation of the systems for the distribution of gas and other construction hereby authorized.

**110.07 RATES.** The Grantee shall have the right to supply, distribute and sell gas for any and all purposes to the City and to the inhabitants thereof, and to charge therefor such just and reasonable rates as hereafter may be fixed and determined by the rate-making body established under the laws of the State and given jurisdiction thereof.

**110.08 SUCCESSORS AND ASSIGNS.** All of the provisions of this chapter shall apply to the successors or assigns of the Grantee with the same force and effect as they do to the Grantee.

**EDITOR'S NOTE**

Ordinance No. 232 adopting a gas franchise for the City was passed and adopted on January 31, 1991. Voters approved the franchise at an election held on March 19, 1991, and the Grantee accepted the franchise on May 16, 1991.

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## CHAPTER 111

### ELECTRIC FRANCHISE

111.01 Franchise Granted  
111.02 Construction Standards  
111.03 Restoration of Public Property  
111.04 Service Extension

111.05 Rates  
111.06 Successors  
111.07 City Held Harmless

**111.01 FRANCHISE GRANTED.** The City hereby grants unto the Iowa Electric Light and Power Company, an Iowa Corporation, its successors and assigns, hereinafter called the Grantee, a nonexclusive franchise and right, for a period of twenty-five (25) years from and after the date the ordinance codified by this chapter became effective, to erect, construct, reconstruct, maintain and operate within the corporate limits of the City, as the same now are or may hereafter be located or extended, a power plant or plants for the generation of electricity and/or a system or systems for the transmission and distribution of electricity, whether said power plant or plants and transmission and distribution systems have been heretofore or hereafter may be constructed, together with the franchise and right to enter upon and to use and occupy the streets, avenues, alleys, bridges and other public places of the City as the same are now or may hereafter be located or extended, for the purpose of constructing, reconstructing, maintaining and operating thereon, therein, thereunder and thereover said systems for the transmission and distribution of electricity, consisting of poles, posts, wires, cables, conduits and other equipment, appurtenances and construction necessary or incident to said systems, including a high potential electric transmission line or lines, to and through the City, and together with the franchise and right to supply, distribute and sell electric energy to the City and to the inhabitants thereof and others within and without the corporate limits of the City for any and all purposes and upon such terms and conditions and under such restrictions and regulations as are hereinafter contained, and such other reasonable rules and regulations as may hereafter be provided by the rule-making body having jurisdiction thereof.

**111.02 CONSTRUCTION STANDARDS.** The construction of said transmission and distribution systems shall be in accordance with the specifications of the National Electrical Safety Code issued by the United States Department of Commerce, Bureau of Standards, as approved by the State Utilities Board. All poles, posts, wires, cables, conduits and other equipment, appurtenances and construction connected therewith shall be located, erected, adjusted and maintained so as not to interfere unreasonably with any improvements the City may deem proper to make, or to hinder unnecessarily or

obstruct the free use of the streets, avenues, alleys, bridges or other public places.

**111.03 RESTORATION OF PUBLIC PROPERTY.** Whenever the Grantee, in erecting, constructing, or maintaining said transmission and distribution systems, shall take up or disturb any pavement or sidewalk or make any excavations in the streets, avenues, alleys, bridges or public places of the City, such excavations shall be at once refilled and the pavement, sidewalk or other improvement replaced to the satisfaction of the City officials.

**111.04 SERVICE EXTENSION.** The Grantee shall extend its overhead transmission and distribution lines for each applicant for light, power or electric current as provided by the most current extension rules promulgated by the governing regulatory body.

**111.05 RATES.** The Grantee shall have the right to supply, distribute and sell electricity for any and all purposes to the City and to the inhabitants thereof, and to charge therefor such just and reasonable rates as may hereafter be fixed and determined by the rate-making body established under the laws of the State and given jurisdiction thereof.

**111.06 SUCCESSORS.** All of the provisions of this chapter shall apply to the successors or assigns of the Grantee, with the same force and effect as they do the Grantee.

**111.07 CITY HELD HARMLESS.** The Grantee shall hold the City harmless from any and all causes of action, litigation or damages which may arise through or by reason of the construction, reconstruction, maintenance and operation of said distribution and transmission systems and other construction hereby authorized.

**EDITOR'S NOTE**

Ordinance No. 7-3.0400 adopting an electric franchise for the City was passed and adopted on March 15, 1986. Voters approved the franchise at an election held on April 22, 1986. The Grantee accepted the franchise on May 30, 1986.

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## CHAPTER 112

### TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Police Power

**112.01 FRANCHISE GRANTED.** The Farmers Mutual Telephone Company of Shellsburg, a corporation, its successors and assigns are hereby granted the right to use and occupy the streets, alleys and other public places of the City for a term of fifty (50) years from the effective date of the ordinance codified by this chapter, for the purpose of constructing, maintaining and operating a general telephone system within the City.

**112.02 POLICE POWER.** The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

#### EDITOR'S NOTE

Ordinance No. 40 adopting a telephone franchise for the City was passed and adopted on March 22, 1960, and approved by the electors of the City at an election held on April 26, 1960. The Company accepted the franchise on May 5, 1960.

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## CHAPTER 113

### CABLE TELEVISION FRANCHISE

**113.01 FRANCHISE GRANTED.** The City hereby grants unto Shellsburg Cablevision, Inc., a division of Farmers Mutual Telephone Company, an Iowa corporation, its subscribers and systems, hereinafter called Grantee, a nonexclusive franchise and right for a term of fifteen (15) years from and after the date the ordinance codified herein became effective, to erect, construct, reconstruct, maintain and operate within the corporate limits of the City, as the same now are or may hereafter be located or extended, a cable television system, together with the service and right to enter upon and use and occupy the streets, alleys and other public places of the City as the same now or hereafter may be located or extended for the purpose of constructing, reconstructing, maintaining and operating therein, thereon and thereunder said cable television system, including all parts thereof, and together with the franchise and right to supply, distribute and sell cable television services to the City, and to the inhabitants thereof, subject to all terms and conditions of Chapter 114 of this Code of Ordinances.

#### EDITOR'S NOTE

Ordinance No. 7-3.0401 adopting a cable TV franchise for the City was passed and adopted on December 27, 1984, and approved by the electors of the City at an election held on January 15, 1985. Ordinance No. 287 renewing the franchise to Shellsburg Cablevision, Inc. for an additional 15 years was adopted August 10, 1998.

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## CHAPTER 114

# CABLE TELEVISION REGULATIONS

114.01 Purpose	114.14 Rates and Charges
114.02 Definitions	114.15 Payments to the City
114.03 Authority Under Franchise	114.16 Franchise Territory
114.04 Compliance Required Generally	114.17 Liability and Indemnification
114.05 Modification of FCC Rules	114.18 Activities Prohibited
114.06 Application for Permit	114.19 Unlawful Acts
114.07 Franchise Term	114.20 Grantee to Have No Recourse
114.08 Nonexclusive Franchise	114.21 Failure of the City to Enforce Franchise
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114.10 Continuity of Service	114.23 Program Content Restrictions
114.11 Grantee Rules and Regulations	114.24 Record Keeping
114.12 System Construction, Maintenance and Procedures	114.25 Termination of Franchise
114.13 City Rights	114.26 Surrender Right

**114.01 PURPOSE.** The purpose of this chapter is to provide regulatory provisions of cable television systems in the City.

**114.02 DEFINITIONS.** The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Access channels” means those channels set aside for specific access purposes.
2. “Cable television service” means the delivery by the Grantee to television receivers, or any other suitable type of audio-video communication receivers, to all subscribers within the confines of the City, of all signals of over-the-air television broadcasters allowed by the FCC to be carried by the cable television system as defined by the FCC; all FM radio stations carried on the system; local origination channels; educational channels; public access channels; leased access channels; pay television channels; other services provided for in this chapter and Grantee’s application; and any other services offered by the Grantee over the cable television system.
3. “Federal Communications Commission” or “FCC” means the Federal agency by that name as constituted by the Communications Act of 1934, as amended.
4. “Franchise” means the permission, license or authorization given hereunder to construct, operate and maintain a cable television system in the City.

5. “Grantee” is any person holding a franchise for cable television within the City under the provisions of this chapter. Any other person granted a cable television franchise in the City would also be governed by this chapter.

6. “Gross revenues” means any and all compensation in whatever form, exchange or otherwise, derived from all cable services within the confines of the City, including advertising, leased access channels, and installations, connection and reinstatement of charges; provided, however, it does not include any taxes or services furnished by the Grantee imposed directly on any subscriber or user by a local, State or Federal governmental unit and collected by the Grantee for the entity.

7. “Subscriber” means any person receiving either “basic service” or “additional service” from the Grantee.

8. “System” means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized in this chapter.

**114.03 AUTHORITY UNDER FRANCHISE.** Any franchise granted by the City shall give the Grantee the right and privilege to construct, erect, operate, modify and maintain in, upon, along, above, over and under the streets, which have been or may hereafter be dedicated and opened to public use in the City, and public held utility easements in the City, towers, antennas, poles, cables, electronic equipment, and other network apparatus necessary for the operation of a cable television system in the City, subject to the requirements of this chapter.

**114.04 COMPLIANCE REQUIRED GENERALLY.** The Grantee shall, at all times during the life of the regulatory ordinance codified in this chapter, be subject to all lawful exercise of the police power by the City and to such reasonable regulations as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Grantee shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the City or any other agency of the State or the United States, which may hereafter acquire jurisdiction of the operations of the Grantee authorized in this chapter. Further, Grantee agrees that it will not set up against the City any claim that the provisions of this franchise or any other applicable ordinances are unreasonable or arbitrary.

**114.05 MODIFICATION OF FCC RULES.** Any modification or amendment of the FCC Rules, including Rule 76.31 thereof, applicable to the franchise and the performance of its terms shall be incorporated in this chapter as and when they become effective. The Grantee shall promptly advise the Council of the advent of such modifications or amendments and provide the City with copies of same.

**114.06 APPLICATION FOR PERMIT.** Within sixty (60) days after entry into a franchise agreement with the City, a Grantee shall file with the FCC such request or other application to secure from the FCC any and all necessary permits, licenses, waivers, certificates of compliance or the like in order to fully comply with the terms of this chapter. Prior to submission to the FCC of said request or other application, the Grantee shall submit the same to the City. The Grantee shall thereafter diligently pursue said application or request and do all things necessary and proper to secure the same and keep the City apprised from time to time of the progress of said applications. Copies of all petitions, applications and Exchange Commission or any other Federal or State regulatory commission or agency having jurisdiction regarding any matters affecting cable television shall also be submitted simultaneously to the Council.

**114.07 FRANCHISE TERM.** The franchise granted under this chapter shall terminate fifteen (15) years from the date of grant. The Grantee shall notify the City at least one year prior to the expiration of its franchise as to whether or not the Grantee intends to seek a franchise renewal and the City shall give the Grantee similar notice as to whether it intends to grant a franchise renewal to the Grantee. If it is mutually agreed between the City and the Grantee to pursue the franchise renewal, the Council shall follow all procedures of law effective and applicable at that time with respect to the renewal of a cable television franchise.

**114.08 NONEXCLUSIVE FRANCHISE.** Any franchise granted under this chapter shall not be exclusive, and shall neither restrict the Council in the exercise of its regulatory power nor prevent it from granting any other cable television system franchise or franchises.

**114.09 APPROVAL OF TRANSFER.** Any franchise granted hereunder shall be a privilege to be held for the benefit of the public by the Grantee. No transfer of control of the cable system shall take place whether by force or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition without prior notice to and approval of the Council, which shall not be unreasonably refused. The Council shall be provided specific particulars of the proposed transaction and the Council shall act by resolution having sixty

(60) days within which to approve or disapprove a transfer of control. If no action is taken by the City within sixty (60) days, the approval shall be deemed to have been given. The consent of approval of the Council to any assignment, lease, transfer, sublease or mortgage of the Grantee shall not constitute a waiver or release of the rights of the City in and to the streets.

#### **114.10 CONTINUITY OF SERVICE.**

1. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify or sell the system, or the City terminates or fails to renew the franchise, the Grantee shall do everything in its power to ensure that all subscribers receive continuous uninterrupted service regardless of circumstances. In the event of a change of Grantee, the current Grantee shall cooperate with the City to operate the system for a temporary period in maintaining continuity of service to all subscribers.

2. At the expiration of the term for which the franchise is granted, or upon its termination and cancellation, as provided for herein, the City shall have the right to require the Grantee to remove at its own expense all portions of the cable system from all streets, sidewalks and public ways of the City and to restore the same to their original condition.

**114.11 GRANTEE RULES AND REGULATIONS.** The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions, subject to approval of the Council, governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this chapter and to assure uninterrupted service to each and all of its customers. The Grantee shall not create rules and regulations that preclude the subscriber from having an outside antenna system and antenna switch device. The Grantee may publish a list of acceptable switch devices and make such list available to its subscribers. The Grantee is responsible for the maintenance of switch devices furnished by the Grantee, but not if furnished by a source other than the Grantee.

#### **114.12 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.**

1. The Grantee shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any public or private property damaged or destroyed shall be promptly repaired or replaced by the Grantee and restored to serviceable condition at Grantee's expense.

2. All structures, lines and equipment erected by Grantee within the City shall be located, erected and maintained so that none of its facilities shall endanger the lives of the public, and so as to cause minimal interference with the free use of the streets, alleys, bridges, easements and other public ways and places, and so as to cause minimal interference with the rights or reasonable convenience of private property owners.
3. In the event that the City annexes further territory as authorized by the law, the Grantee shall extend energized trunk cable to the remaining portions of the City so annexed within a one-year time frame.
4. The Grantee, whenever reasonably possible, shall bury its cable at least eighteen (18) inches deep in public property and twelve (12) inches deep in private yards and property. In case of any disturbance of pavement, sidewalk, driveway, ground or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the Council, replace and restore all paving, sidewalk, driveway, ground, bushes, grass, plantings and other similar items or surface of any street or alley disturbed in as good condition as before said work was commenced. The work conducted by the Grantee shall be completed in a timely manner so as to involve the least amount of interruption of use of the area excavated by the City's inhabitants.
5. In the event that at any time during the period of the franchise the City lawfully elects to alter or change any street, alley, easement or other public way requiring the relocation of the Grantee's facilities, then in such event the Grantee, upon reasonable notice by the City, shall remove, relay or relocate said facilities at its own expense.
6. The Grantee agrees not to run any cable through culverts but shall bury said cable underground.
7. The Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrants or mains.
8. The Grantee shall keep service interruptions involving the production and distribution systems as short as practical and insofar as possible, schedule such interruptions during periods of minimum use of the system and precede them with notice. Where such interruptions will unduly impede any public way or service, the Grantee shall advise the City of such fact and arrange its schedule to correct such interruptions in accordance with the directions of the City as to date and time such corrections are to be made.

9. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given no less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

10. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables. Such trimming is to be done under the supervision and direction of the City and at the expense of the Grantee.

11. The Grantee shall provide, upon request and without installation charge or any type of continuing use charge or fee, service to any municipal buildings owned or leased and operated by the City. This shall mean only energized cable to such building. The cost of any internal wiring shall not be the expense of the Grantee. The Grantee shall provide upon request and without installation charge or any type of continuing use charge, service to any public elementary or secondary school buildings and other nonprofit public education agencies. This shall mean only an energized cable to such building. The cost of any internal wiring shall not be borne by the Grantee.

12. The Grantee shall distribute television signals to subscribers which are disseminated to the general public by licensed conventional over-the-air broadcasting means.

13. The Grantee shall submit to the Clerk maps and plats showing all existing and proposed television installations in the City. The Grantee shall submit upon request by the City all relevant business records or reports to the City. Such business records and reports shall be full, complete and accurate. The City shall have the right to inspect the relevant records of the Grantee at the premises of Grantee or at a mutually agreed upon premises during the normal business hours of any working day or any other reasonable time or place Grantee is given reasonable notice.

14. Grantee shall in no way tamper with or remove existing television antenna without the subscriber's consent.

15. During the term of the franchise and any renewal thereof, the Grantee shall maintain a 24-hour toll-free telephone number and provide

the Clerk's office with the name, address and telephone number of a person who will act as the Grantee's agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within four (4) business days of their receipt. The Grantee shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint, the date and time thereof. This log shall be made available for periodic inspection of the City. The Grantee shall by appropriate means, such as a card or brochure, as subscribers are connected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and telephone numbers of the employee or employees or agent to whom such inquiries or complaints are to be addressed.

#### **114.13 CITY RIGHTS.**

1. City Rules. The right is reserved by the City to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the State or the United States.
2. Use of System by City. The City shall have the right, during the life of the franchise, of maintaining upon the poles or in the underground conduits of the Grantee within the City limits wire and fixtures necessary for a traffic signal control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the City and shall at all times comply with all reasonable rules and regulations of the Grantee so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Grantee and wires and fixtures used by the City.
3. Emergency or Disaster. In the case of any emergency or disaster, the Grantee shall, upon request of the Clerk or Mayor, make available its facilities to the City for emergency use during the emergency or disaster period.
4. Liability. The City shall not be liable for any damage occurring to the property of the Grantee caused by employees of the City in the performance of their duties, except for damage caused to the Grantee's facilities by the negligence of the City's employees while they are

conducting City business. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be held liable for the failure of the Grantee to perform normal services due to acts of God or other factors beyond the control of the City.

**114.14 RATES AND CHARGES.** In consideration for services rendered to subscribers, the Grantee shall have the right to charge and collect from subscribers fair and reasonable compensation calculated to offset all necessary costs for provision of the services and including a fair rate of return on investment devoted thereto, under efficient and economical management.

**114.15 PAYMENTS TO THE CITY.** The Grantee shall, during each year of operation under the franchise, pay to the City three percent (3%) of the Grantee's system's gross revenues. At the close of the Grantee's fiscal year, an annual report shall be provided the Council detailing all revenues received by the Grantee and indicating the source of said revenues. All payments as required by the Grantee to the City shall be made quarterly and shall be due forty-five (45) days after the close of the period. To determine time of the payments, the City's fiscal year is July 1 through June 30 of each year.

**114.16 FRANCHISE TERRITORY.** It is the obligation of the Grantee to serve all residents of the City within the territorial limits of the City. In the event additional acres are annexed to the City, Grantee shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification where there is an average of thirty-five (35) homes per each linear mile of new cable construction.

**114.17 LIABILITY AND INDEMNIFICATION.** The Grantee shall indemnify the City for and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The City shall notify the Grantee's representative within fifteen (15) days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Grantee. The Grantee agrees as follows:

1. The Grantee shall carry Worker's Compensation insurance with statutory limits and Employers' Liability insurance with limits of not less than one hundred thousand dollars (\$100,000.00) which shall cover all operations to be performed by the Grantee as a result of this chapter.

2. The amounts of insurance to be carried for liability due to property damage shall be five hundred thousand dollars (\$500,000.00) as

to any one occurrence and against liability due to injury or death of persons, five hundred thousand dollars (\$500,000.00) as to any one person and one million dollars (\$1,000,000.00) as to any one occurrence. The City shall reserve the right during the term of the franchise to increase or decrease the amount of insurance coverage required, provided that notice in writing is made to the company of all increases or decreases in said insurance coverage requirements. The Grantee shall, within sixty (60) days of receipt of that written notice, obtain such insurance coverage as is specified in said notice. The City shall be named as an insured or additional insured of these liability policies.

3. Grantee's Worker's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company with a capital and/or surplus of not less than three million dollars (\$3,000,000) and Grantee agrees to furnish the City with certified copies or certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless ten (10) days' prior written notice first be given to the City.

4. The insurance coverage shall provide a ten (10) day notice to the Clerk in the event of a material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective. Copies of all policies required hereunder will be furnished to and filed with the Clerk. Further, the insurance provided herein shall not be canceled unless ten (10) days' written notice shall first be given to the City.

5. Within thirty (30) days after the effective date of the ordinance codified by this chapter, the Grantee shall obtain and maintain at its cost and expense and file with the Clerk a corporate surety bond in a company authorized to do business in the State and found acceptable by the Council in the amount of five thousand dollars (\$5,000.00) to guarantee the timely construction and full activation of the cable television system. The bond shall provide, but not be limited to, the following conditions:

A. There shall be recoverable by the City, jointly and severally, from the principal and surety any and all damages, loss or costs suffered by the City resulting from the failure of the Grantee to satisfactorily complete and fully activate the cable television system within twelve (12) months from the issuance of the certification of compliance for the system by the FCC pursuant to the terms and condition of Section 114.06.

B. Any extension of the prescribed time limit must be authorized by the Council and shall be authorized only when the

Council finds that such extension is necessary and appropriate due to causes beyond control of the Grantee.

C. The construction bond shall be terminated only if the Council finds that the Grantee has satisfactorily completed and fully activated the cable television system pursuant to the terms and conditions of this section.

D. The rights reserved by the City with the respect to the construction bond are in addition to all other rights of the City, whether reserved by this franchise or authorized by law.

6. Grantee shall promptly, after the granting of the franchise, furnish the City a surety bond in the sum of five thousand dollars (\$5,000.00) in the aggregate with a surety company qualified to do business in the State. Said performance bond shall also be subject to the approval of the City. Such bond shall be conditioned to insure payment of any franchise fee to the City and to insure faithful performance under the terms of the franchise. If after two (2) years of the effective date of the franchise, Grantee is not declared by the City to be in default under the terms of the franchise, the City hereby waives the foregoing bond requirements reserving, however, the right to reimpose the requirement upon its finding, after a public hearing affording due process, that the Grantee is in default.

#### **114.18 ACTIVITIES PROHIBITED.**

1. The Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by the Grantee, nor shall the system interfere with, obstruct or hinder, in any manner, the operation of the various utilities serving the residents of the City.

2. The Grantee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

#### **114.19 UNLAWFUL ACTS.**

1. It is unlawful for any person to make any unauthorized connections, whether physically, electrically, acoustically, inductively or otherwise, with any part of the Grantee's cable system without payment to the Grantee or its lessee.

2. It is unlawful for any person without consent of the owner to willfully tamper with, remove, or injure any cable, wires, or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over the Grantee's cable system.
3. The Grantee shall maintain equipment and audit systems to monitor for and detect such unlawful acts. It shall be the Grantee's responsibility to gather evidence of violations of the provisions of this section.

**114.20 GRANTEE TO HAVE NO RE COURSE.** Except as expressly provided in this chapter, the Grantee shall have no recourse whatsoever against the City for any loss, cost or expense of damage arising out of any of the provisions or requirements of this franchise or because of the enforcement thereof by the City nor for the failure of the City to have the authority to grant all or any part of this franchise. The Grantee expressly acknowledges that upon accepting the franchise it did so relying upon its own investigation and understanding of the power and authority of the City to grant the franchise. The Grantee by acceptance of the franchise acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement, whether verbal or written or on behalf of the City or by any other third person, concerning any term or condition of the franchise not expressed herein. The Grantee further acknowledges by the acceptance of the franchise that it has carefully read the terms and conditions and agrees that, in the event of any ambiguity therein or in the event of any other dispute over the meaning thereof, the same shall be construed strictly against the Grantee and in favor of the City.

**114.21 FAILURE OF THE CITY TO ENFORCE FRANCHISE.** The Grantee agrees by the acceptance of the franchise that it will not at any time be excused from complying with any of the terms or conditions of the franchise by any failure of the City upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.

**114.22 GRANTEE WILL NOT CONTEST VALIDITY.** The Grantee agrees by the acceptance of the franchise that it will not at any time set up against the City in any claim or proceeding any conditions or terms of the franchise as unreasonable, arbitrary or void or that the City had no power or authority to make such terms and conditions, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety.

**114.23 PROGRAM CONTENT RESTRICTIONS.** In addition to providing basic cable television service consisting of broadcast, locally originated, access and automated signals, the Grantee may offer subscribers optional services on a per-program or per-channel basis. However, the Grantee shall not program or in any way display X-rated motion pictures as defined by the Motion Picture Academy either as part of its basic cable or pay cable services.

**114.24 RECORD KEEPING.** The Grantee shall keep full, true, accurate and current books of account, which books and records and all other pertinent books, records, maps, plans, financial statements and other like materials, shall be made available for inspection and copying by the City upon reasonable notice and during normal business hours.

**114.25 TERMINATION OF FRANCHISE.**

1. **Grounds for Revocation.** In addition to any other remedies provided the City in this chapter, the City reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

A. If the Grantee should default in the performance of any of its obligations under this chapter or the franchise and fails to cure the default within thirty (30) days after receipt of written notice of the default from the City.

B. If the Grantee should fail to provide or maintain in full force and effect, the performance bond and liability and indemnification coverage as required.

C. If a receiver, trustee or liquidator of the Grantee is appointed for all or part of its assets under the Bankruptcy Act or any other Creditor's Rights Law, State or Federal.

D. If the Grantee should violate any orders or ruling of any regulatory body having jurisdiction over the Grantee unless the Grantee is lawfully contesting the legality or applicability of such order or ruling.

E. If the Grantee fails to receive the necessary FCC or State certification unless such cause is directly to action or condition imposed by the City.

2. **Procedure Prior to Revocation.** Upon the occurrence of any of the events enumerated in subsection 1 above, the Council may, after hearing, upon thirty (30) days' written notice to the Grantee citing the reasons

alleged to constitute cause for revocation, and a reasonable time in which the Grantee must remedy the cause. If, during the thirty-day period, the cause shall be cured to the satisfaction of the City, the City may declare the notice to be null and void. If the Grantee fails to remedy the cause within the time specified, the Council may revoke the franchise. In any event, before a franchise may be terminated, the Grantee must be provided with an opportunity to be heard before the Council.

3. Removal of Grantee's Property. On revocation, expiration or abandonment of the franchise to operate the cable television system, the Grantee shall, directed by the City, remove from the public streets where its properties are located all its facilities as set forth in Section 114.10.

4. Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill all excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. All costs associated with said removal and restoration shall be borne by the Grantee. The City shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance and indemnity provided in Section 114.17 shall continue in full force and effect during the period of removal and shall be used by the City to guarantee said removal and restoration. The City may draw upon the performance bond to pay the cost of any removal or restoration not completed by the Grantee.

**114.26 SURRENDER RIGHT.** The Grantee may surrender the franchise at any time upon filing with the Clerk written notice of its intention to do so at least three (3) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges of the Grantee shall terminate. All of the future obligations, duties and liabilities of the Grantee in connection with the franchise shall terminate. Nothing in this section is intended to release the Grantee from obligations and duties in effect prior to surrender, such as outstanding liabilities or liability claims, whether covered by insurance or not, or other obligations outstanding as of date of surrender.

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## CHAPTER 120

### BEER, LIQUOR AND WINE CONTROL

120.01 General Prohibition  
120.02 Persons Under Legal Age  
120.03 Public Consumption or Intoxication

120.04 Open Containers in Motor Vehicles  
120.05 License or Permit Required

**120.01 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 terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

*(Code of Iowa, Sec. 123.2)*

**120.02 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])*

**120.03 PUBLIC CONSUMPTION OR INTOXICATION.**

1. As used in this section unless the context otherwise requires:
  - A. “Arrest” means the same as defined in section 804.5 of the Code of Iowa and includes taking into custody pursuant to section 232.19 of the Code of Iowa.
  - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified

person using devices and methods approved by the Commissioner of Public Safety.

C. "Peace Officer" means the same as defined in section 801.4 of the Code of Iowa.

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

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a 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 or simulate intoxication in a public place.

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

*(Code of Iowa, Sec. 123.46)*

**120.04 OPEN CONTAINERS IN MOTOR VEHICLES.** *(See Section 62.07 of this Code of Ordinances.)*

**120.05 LICENSE OR PERMIT REQUIRED.** It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport 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. 123.2 and 123.171)*

## 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; snuff flour; 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 be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

*(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 provided by the State Department of Revenue 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)*

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

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health 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 (2) 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 (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand

five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four (4) 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 Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

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

## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**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 which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of 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 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 ten dollars (\$10.00) per year.
2. **Peddlers or Transient Merchants.**
  - A. For one day ..... \$ 10.00
  - B. For one week..... \$ 20.00
  - C. For up to six (6) months..... \$ 100.00
  - D. For one year or major part thereof .. \$ 200.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

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

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and five o'clock (5:00) p.m.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under 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.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such 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.

**122.13 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

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

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the 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 Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.16 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.

**122.17 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

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

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.**

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or

nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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## CHAPTER 123

### SEXUALLY ORIENTED BUSINESSES

123.01 Purpose and Intent	123.13 Nonconforming Uses
123.02 Definitions	123.14 Additional Regulations for Adult Motels
123.03 Classification and Standards of Conduct and Operation	123.15 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos
123.04 Permit Required	123.16 Exterior Portions of Sexually Oriented Businesses
123.05 Issuance of Permit	123.17 Signage
123.06 Fees	123.18 Persons Younger Than Eighteen Prohibited
123.07 Inspection	123.19 Massages or Baths Administered by Person of Opposite Sex
123.08 Expiration of Permit	123.20 Consumption of Alcoholic Beverages Prohibited
123.09 Suspension	123.21 Notices
123.10 Revocation	123.22 Injunction
123.11 Transfer of Permit	123.23 Exemptions
123.12 Location Restrictions	

**123.01 PURPOSE AND INTENT.** It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

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

1. “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
2. “Adult bookstore” or “adult video store” means a commercial establishment that, as one of its principal business purposes, offers for

sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary use of an establishment, so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

3. "Adult cabaret" means a commercial establishment that regularly features:

- A. Persons who appear in a state of semi-nudity; or
- B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

4. "Adult motel" means a hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures video cassettes, slides, or

other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way that advertises the availability of these adult types of photographic reproductions; or

B. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

5. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

6. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

7. "Director" means the Mayor and such employees of the City as the Mayor may designate to perform the duties of the Director under this chapter.

8. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

9. "Escort agency" means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

10. "Establishment" means and includes any of the following:

A. The opening or commencement of any sexually oriented business as a new business;

B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

C. The additions of any sexually oriented business to any other existing sexually oriented business; or

## D. The relocation of any sexually oriented business.

11. "Licensed day-care center" means a facility licensed by the State, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, of less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

12. "Permittee" means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

13. "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

14. "Nudity" or "state of nudity" means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

15. "Semi-nude" means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

16. "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.

17. "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion

picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

18. "Specified anatomical areas" means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

19. "Specified sexual activities" means and includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C above.

20. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) from the original premises.

21. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

- A. The sale, lease or sublease of the business;
- B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or
- C. The establishment of a trust, gift or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### **123.03 CLASSIFICATION AND STANDARDS OF CONDUCT AND OPERATION.**

1. Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;

- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

2. The following standards of conduct must be adhered to by entertainers and employees of any sexually oriented business while on the premises:

- A. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except when such entertainer or employee is separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer and employee and any customer within the viewing area and customers are not permitted within four (4) feet of the window or other partition. However, a single opening in such window or partition, allowing for payment for entertainment, by a customer to the entertainer, shall be permitted and at this point customers are permitted within two (2) feet of the window or other partition to allow customers to reach the opening.
- B. No employee or entertainer shall perform:
  - (1) Any specified sexual activities; or
  - (2) The displaying of any specified anatomical area, except as provided for in paragraph A of this subsection.
- C. No employee or entertainer who is either not separated from any and all customers as provided in paragraph A of this subsection, or in an area of the premises not open to customers shall be unclothed or in less than opaque and complete attire, costume or clothing as described in paragraph A of this subsection.
- D. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or

caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

E. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area or while performing any entertainment, either while clothed or unclothed.

F. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this chapter.

G. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in paragraph A of this subsection.

3. At any sexually oriented business, the following are required:

A. A sign, on which upper-case letters are at least two (2) inches high and lower-case letters are at least one (1) inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

*THIS ADULT ENTERTAINMENT BUSINESS  
IS REGULATED BY THE CITY OF URBANA, IOWA.  
ENTERTAINERS ARE:*

1. *Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
2. *Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals, except when separated from customers by the window or partition between the entertainer and customers.*
3. *Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.*

B. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

C. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers

are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

#### **123.04 PERMIT REQUIRED.**

1. It is unlawful for a person to operate a sexually oriented business without a valid permit issued by the Director.
2. An application for a permit must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
3. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with all applicable City regulations.
4. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.
5. The fact that a person possesses other types of State or City permits and/or licenses does not exempt said person from the requirement of obtaining a sexually oriented business permit.
6. Applications for a permit, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Director during regular working hours. Application forms shall be supplied by the Director. The intended operator shall be required to give the following information on the application form:
  - A. The name, street address (and mailing address if different) and Iowa driver's license number of the intended operator;

- B. The name and street address (and mailing address if different) of the owner;
- C. The name under which the establishment is to be operated and a general description of the services to be provided;
- D. The telephone number of the establishment;
- E. The address and legal description of the tract of land on which the establishment is to be located;
- F. If the establishment is in operation, the date on which the owner acquiring the establishment began operations as a sexually oriented business at the location for which the permit is sought; and
- G. If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.
- H. Statement that the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Code of Iowa, Federal law, or the statutes of any other state, or controlled substance or illegal drugs or narcotics offenses, as defined in the Code of Iowa, Federal law or the statutes of any other state, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution or the possession or sale of controlled substances or illegal drugs or narcotics.

7. The application shall be accompanied by the following:
  - A. Payment of the application fee in full to the City.
  - B. If the establishment is an Iowa corporation, a certified copy of the articles of incorporation, together with all amendments thereto.
  - C. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in the State, together with all amendments thereto.
  - D. If the establishment is a partnership formed under the laws of the State, a certified copy of the certificate of partnership, together with all amendments thereto.
  - E. If the establishment is a foreign partnership, a certified copy of the certificate of partnership and the qualification documents, together with all amendments thereto.
  - F. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.
  - G. If the persons identified as the fee owners of the tract of land in item F are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.
  - H. Any of items B through G above shall not be required for a renewal application if the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.
8. The application shall contain a statement under oath that:
  - A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
  - B. The applicant has read the provisions of this chapter.
9. A separate application and permit shall be required for each sexually oriented business.

**123.05 ISSUANCE OF PERMIT.**

1. The Director shall approve the issuance of a permit to an applicant within sixty (60) days after receipt of an application unless the Director finds one or more of the following to be true:
  - A. An applicant is under eighteen (18) years of age.
  - B. An applicant or an applicant's spouse is overdue in the payment to the City of taxes, fines or penalties assessed against said applicant or spouse or imposed in relation to a sexually oriented business.
  - C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
  - D. An applicant is residing with a person who has been denied a permit by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  - E. The premises to be used for the sexually oriented business have not been approved by the City as being in compliance with applicable laws and ordinances.
  - F. The permit fee required by this chapter has not been paid.
  - G. An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.
2. The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business that it may be easily read at any time.
3. The City shall complete their certification that the premises is in compliance or not in compliance within thirty (30) days of receipt of the application by the Director. The certification shall be promptly presented to the Director.
4. In the event that the Director determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days after the receipt of the application by the Director, provided that the applicant may request, in

writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.

5. An applicant may appeal the decision of the Director regarding a denial to the Council by filing a written notice of appeal with the Clerk within fifteen (15) days after the applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may submit a memorandum in response to the memorandum filed by the applicant on appeal to the Council. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Council shall vote either to uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the Clerk receives the notice of appeal. However, all parties shall be required to comply with the Director's decision during the pendency of the appeal.

**123.06 FEES.** The annual fee for a sexually oriented business permit is five hundred dollars (\$500.00). This fee is to be used to pay for the cost of the administration and enforcement of this chapter.

**123.07 INSPECTION.** An applicant or permittee shall permit representatives of the City or State departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

**123.08 EXPIRATION OF PERMIT.**

1. Each permit shall expire one year after the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least thirty (30) days before the expiration date and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

2. When the Director denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to the denial, the Director finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the denial became final.

**123.09 SUSPENSION.** The Director shall suspend a permit for a period not to exceed thirty (30) days if it is determined that the permittee or an employee of a permittee has:

1. Violated or is not in compliance with any section of this chapter;
2. Become impaired or intoxicated through the use of alcoholic beverages or controlled substances while on the sexually oriented business premises;
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
4. Knowingly permitted illegal gambling by any person on the sexually oriented business premises.

**123.10 REVOCATION.**

1. The Director shall revoke a permit if a cause of suspension in Section 123.09 occurs and the permit has been suspended within the preceding twelve (12) months.
2. The Director shall also revoke a permit if it is determined that:
  - A. A permittee gave false or misleading information in the material submitted during the application process.
  - B. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.
  - C. A permittee or an employee has knowingly allowed prostitution on the premises.
  - D. A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.
  - E. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the premises.
  - F. A permittee is delinquent in the payment to the City or State for any taxes or fees past due.
  - G. The owner or operator of the establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment.
  - H. There was a change of owner or operator for which a transfer application was not filed in a timely manner.

3. When the Director revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the revocation became effective.

**123.11 TRANSFER OF PERMIT.** A permittee shall not transfer the permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

**123.12 LOCATION RESTRICTIONS.** Sexually oriented business shall be permitted in any C-1 zoned commercial district, provided that:

1. The sexually oriented business may not be operated within 3,000 feet of:
  - A. A church, synagogue or regular place of religious worship;
  - B. A public or private elementary or secondary school;
  - C. A boundary of any residential district;
  - D. A public park;
  - E. A licensed day-care center;
  - F. A hotel, motel or a similar commercial establishment; or
  - G. Another sexually oriented business.
2. A sexually oriented business may not be operated in the same building, structure or portion thereof, containing another sexually oriented business.
3. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day-care center.
4. For purposes of subsection 3 of this section, the distance between any two sexually oriented business uses shall be measured in a straight

line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

### **123.13 NONCONFORMING USES.**

1. Any business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of the configuration requirements with regard to structure and location contained in this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 3,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.
2. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, synagogue or regular place of religious worship, public or private elementary school or secondary school, licensed day-care center, public park, or residential district within 3,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

### **123.14 ADDITIONAL REGULATIONS FOR ADULT MOTELS.**

1. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.
2. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business permit, rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, rents or sub-rents the same sleeping room again.

For purposes of subsection 2 of this section, the term "rent" or "sub-rent" means the act of permitting a room to be occupied for any form of consideration.

**123.15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.** A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that depicts "specified sexual activities" or "specified anatomical areas", shall comply with the following requirements:

1. Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of

the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this section.

7. No viewing room may be occupied by more than one person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to an illumination of not less than one foot-candle as measured at the floor level.

9. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

### **123.16 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.**

1. It is unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It is unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

3. It is unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

A. The establishment is a part of a commercial multi-unit center; and

B. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are

painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

C. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

### **123.17 SIGNAGE.**

1. Notwithstanding any other City ordinance, code or regulation to the contrary, it is unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.

2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- A. Not contain any flashing lights;
- B. Be a flat plane, rectangular in shape;
- C. Not exceed seventy-five (75) square feet in area; and
- D. Not exceed ten (10) feet in height or ten (10) feet in length.

3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

4. Each letter forming a word on a primary sign shall be of solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

5. Secondary signs shall have only one display surface. Such display surface shall:

- A. Be a flat plane, rectangular in shape;
- B. Not exceed twenty (20) square feet in area;
- C. Not exceed five (5) feet in height and four (4) feet in width; and
- D. Be affixed or attached to any wall or door of the enterprise.

6. The provisions of paragraph A of subsection 2 and of subsections 3 and 4 shall also apply to secondary signs.

**123.18 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.**

1. It is unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:
  - A. A valid operator's commercial operator's or chauffeur's driver's license; or
  - B. A valid personal identification certificate issued by the State reflecting that such person is 18 years of age or older.

**123.19 MASSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX.** It is unlawful for any establishment, regardless of whether it is a public or private facility, to operate a massage salon, massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless licensed by the State of Iowa.**123.20 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.** The permittee of a sexually oriented business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine or beer. No person shall possess or consume any alcoholic beverage, wine or beer on the premises of any sexually oriented business.**123.21 NOTICES.**

1. Any notice required or permitted to be given by the Director or any other City office, division, department or other agency under this chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Director, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal

service, the Director shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given to the Director by any person under this chapter shall not be deemed given until and unless it is received in the office of the Director.

3. It is the duty of each owner who is designated on the permit application and each operator to furnish a notice to the Director in writing of any change of residence or mailing address.

**123.22 INJUNCTION.** A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

**123.23 EXEMPTIONS.** It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated by:

1. A proprietary school licensed by the State of Iowa or a college, junior college or university supported entirely or partly by taxation; or
2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

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## CHAPTER 134

### RIGHT-OF-WAY

134.01 Purpose  
134.02 Administration  
134.03 Definitions

134.04 Right-of-way  
134.05 Visual of Right-of-Way Description  
134.06 Permit Required

**134.01 PURPOSE.** The purpose of this Ordinance is for the regulation of the use of public Rights-of-Way in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety, and function of the public Right-of-Way. The following sections shall be made a part of the specifications for any and all work or use within an existing or future public Right-of-Way.

**134.02 ADMINISTRATION.** The Public Works Director or City Council along with the City Engineer is the principal City of Urbana official responsible for the administration of the Rights-of-Way, Right of Way Permits, and the ordinances related thereto. The Public Works Director or City Council and the City Engineer's authority shall establish rules and regulations governing street excavations and shall implement this ordinance. The Public Works Director or City Council and the City Engineer may delegate any or all of the duties hereunder.

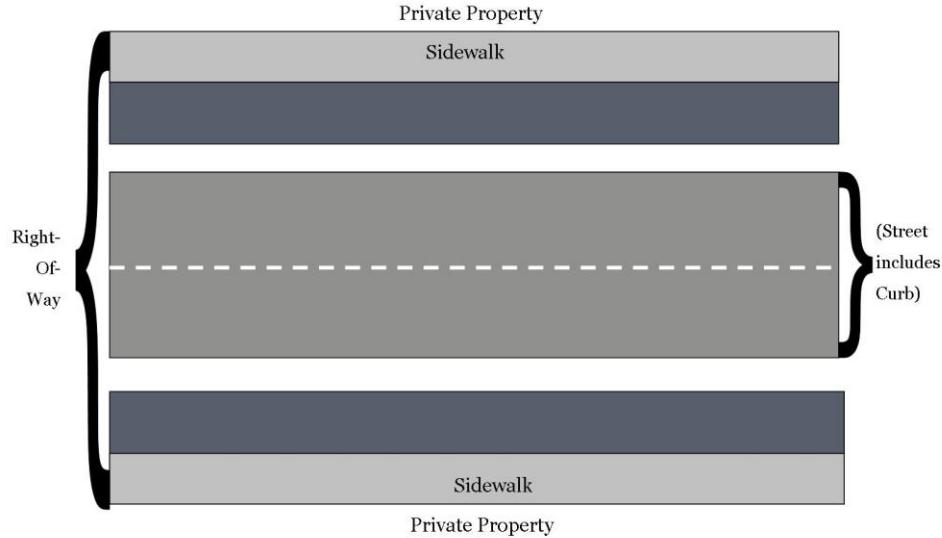
#### 134.03 DEFINITIONS.

- a. City—shall mean the City of Urbana, Iowa
- b. City Standard Details and City Standards, Specifications, Rules and Regulations—refers to general engineering Standards, Specifications, Rules and Regulations and the Standard Details for construction activities within the City right-of-way
- c. Excavation—means an operation for the purposes of movement or removal of earth, rock or other materials in or on the ground or otherwise disturbing the subsurface of the earth, by the use of powered or mechanized equipment, including but not limited to ; digging, blasting, auguring, backfilling, test boring, drilling, pile driving, grading, plowing-in, hammering pulling-in, trenching, tunneling, reclamation processes, and milling; excluding the movement of earth by tools manipulated only by human power and tilling of soil for agricultural purposes.
- d. Facility(ies)—means any wire, cable, pipe, vault, storage tank, transformer, or other similar property or equipment owned by public

utilities for furnishing electric, gas, telephone, communications and pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, traffic signal, fire signal, or similar service, regardless of whether such property or equipment is located on land owned by a person or public agency or whether it is located within an easement or right-of-way, but excluding property or equipment owned by the owner of a private residence for utility service solely for such residence.

- e. Permittee—shall mean a person who has obtained a permit as required by this ordinance
- f. Person—shall mean any natural or corporate Person, business association or other business entity including, but not limited to; a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
- g. Right-of –Way -- shall mean the area on, below, or above the public roadway, highway, street, vegetative area, bicycle path, place, alley, sidewalk, park, or any other similar public property or easement owned or controlled by the City and dedicated to public use. The City has an interest for public travel and utility purposes. A Right-of-Way does not include the airwaves above the Right-of-Way with regard to cellular or other non-wire telecommunications or broadcast service.
- h. Right-of-Way Permit—refers to a permit issued by the City of Urbana, describing the work proposed within the City right-of-way and conditions Permittee shall be obligated to comply with including requirements set forth under this Right-of-Way Ordinance.
- i. Utility—means the owner or operator of underground or above ground facilities and their plant or similar facilities. Such facilities may consist of, but not be limited to; public or private companies selling or controlling the sale, distribution or use of water, gas , electricity, cable television, communication systems, sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), railroad lines and tracks, wires, cables, ducts, pipes, manholes, transformers, poles, towers, steam, traffic signal, fire signal or similar service.

**134.04 RIGHT-OF-WAY.** Shall mean the area on, below, or above the public roadway, highway, street, vegetative area, bicycle path, place, alley, sidewalk, park, or any other similar public property or easement owned or controlled by the City and dedicated to public use. The City has an interest for public travel and utility purposes.

**134.05 VISUAL OF RIGHT OF WAY DESCRIPTION****134.06 PERMIT REQUIRED – See Additional requirements Chapter 135.09 Excavations**

- a. No person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City.
- b. An excavation permit is required to allow the holder to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein to the extent and for the duration specified therein.
- c. An obstruction permit is required to allow the holder free and open passage over the specified therein; however, an obstruction permit shall only be required in those instances where excavation is not a part of the work for which a permit application has been made, and said proposed work is estimated to hinder free and open passage in City right-of-way for twenty-four (24) hours or longer.
- d. Any permit issued under this chapter shall be conspicuously displayed at all time at the indicated work site and shall be available for inspection by the authorized City personnel

**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

135.14 Drainage Tile

**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, set posts or stakes or in any manner disturb or break up any improved or unimproved street, highway, avenue, parking or alley, including that portion between the traveled portion and property line, except in accordance with the following:

1. **Permit Required.** No excavation shall be commenced without first obtaining a permit therefor. This section shall apply to any public utility including its authorized employees or agents, when engaged in construction, reconstruction or maintenance of its facilities. Such utilities are also subject to public or private liability as required in subsections 4 and 5 of this section. The charge for such permit shall be established by resolution of the Council. 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, highway, avenue, parking or alley surface (the City may require a deposit in sufficient amount to cover such costs and expense); and
- D. Date of commencement of the work and estimated completion date.

2. **Public Convenience.** Streets, highways, avenues, parking and alleys shall be opened in the manner which will cause the least

inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. **Barricades, Fencing and Lighting.** Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. **Insurance Required.** Each applicant shall 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

subject to the approval of the City and conditioned that such person shall make such excavation and accomplish the object thereof with all possible dispatch, shall report to the City as soon as the excavation is completed and the object thereof attained, and shall save the City harmless of any damages occasioned by such digging or excavating.

5. **Maintenance/Performance Bond Required.** The applicant shall post with the City a performance/maintenance 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 require payment to the City of a penal sum should the contractor fail to complete the work in a manner acceptable to the City or should defects of workmanship or materials appear within four (4) years of the acceptance of the work by the City, and 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 one thousand dollars (\$1,000.00) may be filed with the City.

6. **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.

7. **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. If the

work for which the permit is received is to be performed within an easement located on private property, the owner of the property on which the easement is located shall be notified in writing at least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays.

8. **Restoration of Public Property.** Streets, highways, avenues, parking, 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. All such repair and/or restoration shall be done in accordance with the City's Standards for Public Improvements.

9. **Inspection.** All work shall be subject to inspection by the City. Backfill shall be done by the owner or contractor with fill sand and shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired. Said person shall also notify the City Inspector when finishing work, including paving and restoration of the street, highway, avenue, parking or alley is being done and shall provide the City with notice at least 24 hours prior to the time when inspection of finishing work is desired. When the work is substantially complete, the contractor shall notify the City Inspector in writing that the work is ready for final inspection. Within 48 hours of receiving the notice, the Inspector shall inspect the work and shall approve the work for final acceptance by the City or shall notify the contractor in writing of defects to be cured before the work can be certified for acceptance by the City.

10. **Completion by the City.** Should any excavation in any street, highway, avenue, parking 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. If such expenses are not paid, the City shall proceed to collect the same, and with further provision that such refilling and replacing, when done by the obligor, shall remain in good condition and not settle to become uneven for a period of one year after the acceptance of the same.

11. **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. The person requesting such permit shall also be responsible to pay the cost of any interim maintenance until permanent repairs have been completed.

12. Improvement of Streets; Underground Pipes. Whenever any portion of any street, highway, avenue, parking or alley in the City is ordered paved or otherwise improved by the Council, it shall be the duty of every person to take notice of such order and forthwith and before any such portion of any street, highway, avenue, parking or alley is improved, to make all excavations necessary for laying water or sewer pipes or any other desirable underground services, in any portion of the street, highway, avenue, parking or alley so ordered improved.

13. Disposal of Property. No person excavating earth or stone in any public street, highway, avenue, parking or alley belonging to the City, or any other public place, without a permit from the City, shall sell, or in any other way dispose of the stone and earth so excavated, and any person violating this provision shall pay the City three (3) times the value of such property to be recovered by action of debt in favor of the City.

14. Additional Provisions.

A. The Urbana, Iowa Design Standards shall apply to all work.

B. The City Inspector may require the use of rebar for concrete repairs where it is deemed necessary in said official's opinion. The rebar shall be installed in accordance with the directions given by the City Inspector.

C. No permit to dig or excavate in an improved street, highway, avenue, parking or alley of the City shall be granted by the City when the ground is frozen to a depth of twelve (12) inches or more, unless in case of extreme emergency.

D. No person shall cut a curb in the City without first obtaining a permit from the Council. The Council shall obtain the recommendation of the Police Chief and the Public Works Director or City Engineer and shall consider the public safety and effect on traffic in issuing the permit. This section shall apply only to curb cuts to be made in previously developed areas and/or lots; it shall not apply to curb cuts performed in conjunction with construction in newly developing sites.

**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.

**135.14 DRAINAGE TILE.**

1. Drainage Facility. By definition of this section, a "drainage facility" is a drain tile, culvert, storm sewer, or other conduit to convey storm water runoff from frequent storm events. Upon approval of the City, a property owner may, at the owner's expense, install privately owned and maintained drainage facilities within the right-of-way of a

City street or alley or upon other City-owned property which is adjacent to the owner's property. Before installing drainage facilities, a maintenance agreement form provided by the City must be completed, and installation must be in accordance with City specifications. If deemed necessary by the City, the property owner shall pay the cost of having the City Engineer provide a professional assessment and recommendation in connection with any proposed installation. In the event repairs are needed at any time with respect to drainage facility, it shall be the responsibility of the property owner to make such repairs within the time specified by the City. In the event the owner fails to do so, the City shall have the right to make 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.

2. Minimum Size of Drainage Facility.

- A. Drain tile running parallel under well-defined roadside ditch with a minimum ditch depth of two (2) feet – 6-inch diameter.
- B. Culvert up to 50 feet long – 12-inch diameter.
- C. Culvert or storm sewer greater than 50 feet long – 15-inch diameter.

3. Structures Required. Storm sewer structures are required when there is a change in size, grade or alignment of the drainage facility. "Structure" shall be defined as a manhole, intake or cleanout that shall be sited and installed as deemed necessary by the City Engineer. Maximum spacing of structures shall be 400 feet.

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## CHAPTER 136

### SIDEWALK REGULATIONS

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

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

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

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

8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner located on the block of W. Wood Street which is between Ash Avenue and Brush Avenue does not remove snow, ice or accumulations within eight (8) hours after the snowfall has ended, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. If the owner of property located elsewhere in the City does not remove snow, ice or accumulations within twenty-four (24) hours after the snowfall has ended, the City may issue a citation.

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

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

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

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

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

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal will comply with all ordinances and requirements of the City for such work. A person who reconstructs or installs a sidewalk will not be required to obtain a permit from the City, but such person must comply with all ordinances and requirements of the City for such work.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced or constructed under the provisions of this chapter shall meet the following standards and those set forth in the Urbana, Iowa Design Standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
  - B. Business district sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
  - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ( $\frac{1}{2}$ ) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ( $\frac{1}{4}$ ) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

*(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 FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 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.

(*Code of Iowa, Sec. 364.7[3]*)

## EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

# 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.

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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 Urbana, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following

changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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## CHAPTER 145

# DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor or the Benton County Health Officer or the Building Inspector is responsible for the enforcement of this chapter.

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

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

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

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. **Fire Hazard.** Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined 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.

**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 URBANA, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

*(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.

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

**EDITOR'S NOTE**

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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# CHAPTER 150

## BUILDING NUMBERING

150.01 Definitions  
150.02 Owner Requirements

150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) 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 MAP.** The Clerk shall be responsible for preparing and maintaining a building numbering map.

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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 City right-of-way without City approval. If the City approval has been obtained, planting shall be 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 which 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 with a forty (40) foot minimum between trees. 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 right-of-way any fruit-bearing tree or any tree of the kinds commonly known as ash, cottonwood, poplar, box elder, Chinese elm, weeping willows, evergreen, silver maple, tree of heaven, catalpa, mulberry or pin oak.

*(Ord. 639 – Feb. 10 Supp.)*

**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. The City reserves the right to exempt, by resolution of the Council, specific and identified areas in which the City has invested in streetscape and landscaping enhancements. In areas exempted by the City, it shall specify in a written notice to the abutting property owner who shall maintain the area. This section shall be interpreted consistently with Section 135.10 of this Code of Ordinances.

*(Ord. 606 – Aug. 07 Supp.)*

*(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 which 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 City shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. Removal from 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, and that danger to other trees within the City is imminent, the City shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. The City 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. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the City shall immediately 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 with

fourteen (14) days of receipt of notice, the council may cause the nuisance to be removed and the cost assessed against the property.

*(Code of Iowa, Sec. 264.12[3b & h])*

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## CHAPTER 155

### BUILDING CODES

155.01 Purpose  
155.02 Adoption of Codes  
155.03 Building Permit Fees  
155.04 Building Permit Required

155.05 Application of Code Regulations  
155.06 Conformity to City's Specifications  
155.07 Violations  
155.08 Permit Expiration and Renewal

**155.01 PURPOSE.** The purpose of this chapter is to protect public health, property, welfare and safety by establishing reasonable minimum requirements for the construction, repair, moving, demolition and use of buildings, structures and related equipment, fixtures and systems.

**155.02 ADOPTION OF CODES.** Pursuant to published notice and public hearing, as required by law, the *International Building Code*, 2003 Edition; the *International Residential Code for One- and Two-Family Dwellings*, 2003 Edition; the *2003 International Plumbing Code*; the *2003 International Mechanical Code*; and the *2002 National Electrical Code* are hereby adopted in full, by reference, except for such portions as may hereinafter be deleted, modified or amended. Official copies of the aforementioned codes are on file in the office of the Clerk.

#### 155.03 BUILDING PERMIT FEES.

1. BUILDING PERMIT FEE SCHEDULE. On buildings, structures or alterations requiring a permit, a fee for each permit shall be collected by the City as set forth in the BUILDING PERMIT FEE SCHEDULE as adopted by resolution of the City Council.

2. FEE REFUNDS. The Building Official may authorize retaining from the permit fee paid: (i) not more than \$25.00 of the permit fee, plus (ii) an amount equal to the expenses exceeding the retained \$25.00 which were incurred in reviewing, approving and issuing the permit, when no work has been done under a permit issued in accordance with these codes, and the balance of the permit fee shall be refunded. In instances in which the permit fee paid is less than \$25.00, 100% of the fee shall be retained when no work has been done under a permit issued in accordance with these codes. The Building Official may authorize retaining from the plan review fee paid: (i) not more than \$25.00 of the plan review fee, plus (ii) an amount equal to any expenses incurred exceeding the retained \$25.00, when an application for a permit for which a

plan review fee has been paid is withdrawn or canceled before any plan reviewing is done, and the balance of the plan review fee shall be refunded.

**155.04 BUILDING PERMIT REQUIRED.** No building or other structure shall be erected, moved, added to, structurally altered, located or used in the City without first obtaining a permit therefor from the Planning and Zoning Commission in accordance with the Zoning Ordinance for the City and amendments thereto.

**155.05 APPLICATION OF CODE REGULATIONS.** All construction for which a building permit is required shall conform to the standards contained in any of the Codes adopted in Section 155.02 of this chapter.

**155.06 CONFORMITY TO CITY'S SPECIFICATIONS.** In all instances in which existing City specifications and regulations do not conform to the specifications and regulations contained in any of the Codes adopted in Section 155.02 of this chapter, the City specifications, regulations and requirements shall supersede all other codes.

**155.07 VIOLATIONS.** It is unlawful for any person to erect, construct, enlarge, alter, repair, improve, use, occupy or maintain any building or structure in the City, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter. Each violation shall constitute a separate offense.

**155.08 PERMIT EXPIRATION AND RENEWAL.** All building permit will expire 6 months after the date of approval. Permits may be renewed one time for an additional 6 months for an additional fee of \$50.00. Failure to renew the permit may subject the person to an administrative charge. Work performed without a required building permit or on an expired building permit may subject holder to a criminal penalty or municipal infraction.

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## CHAPTER 156

### FENCES

156.01 Enforcement Officer  
156.02 Definitions  
156.03 Maximum Height

156.04 Fence Frames  
156.05 Finished Side

**156.01 ENFORCEMENT OFFICER.** The Building Inspector is responsible for the enforcement of this chapter.

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

1. “Fences” shall be constructed of material commonly used for landscape fencing, such as masonry block, lumber, chain link or natural plantings, but shall not include corrugated sheet metal, barbed wire, salvage material or be electrified unless otherwise allowed.
2. “Front yard,” “side yard” and “rear yard” have the same definitions as in the Zoning Ordinance for the City.
3. “Residential property” includes any properties located within the various residential zoning classifications as defined in the Zoning Ordinance for the City.
4. “See-through fence material” is wire fence or other fence material that provides openings of at least seventy-five percent (75%) in area of the vertical surface to permit the transmission of light, air, or vision through the vertical surface at a right angle.

**156.03 MAXIMUM HEIGHT.**

1. Front Yard. No fence more than 36 inches high may be erected in the “front yard” area of any residential property, unless the fence is constructed of see-through fence material. A fence constructed of see-through fence material may not exceed a height of 42 inches in the front yard of a residential property.
2. Side Yard and Rear Yard. No fence more than six (6) feet in height may be constructed in the side yard or rear yard of any residential property.

**156.04 FENCE FRAMES.** The frame of a fence, including posts and supports, shall be placed on the inside of the fence.

**156.05 FINISHED SIDE.** Fencing shall be constructed with the finished side facing outward.

## CHAPTER 157

### STORM DRAINAGE

157.01 Purpose  
157.02 Definitions  
157.03 Connection to Sanitary Sewers  
157.04 Storm Water Discharge

157.05 Roof Drain  
157.06 Sump Pump Connections  
157.07 Rules  
157.08 Abatement of Violations

**157.01 PURPOSE.** The purpose of this chapter is establish rules and regulations governing the collection and disposal of storm and surface waters and drainage to protect public health, property, welfare and safety.

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

1. “Sanitary sewer” means a public sewer that conveys wastewater, and into which storm, surface, ground, and unpolluted waters are not intentionally admitted.
2. “Sewer” means pipe or conduit for conveying sewage or other waste liquids, including storm, surface and groundwater drainage.
3. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
4. “Sump pump” means a mechanical device used to remove water that has been collected from the surrounding area into a pit or reservoir so that it can be dispersed at a later time.

**157.03 CONNECTION TO SANITARY SEWERS.** No surface run-off or groundwater collected by a roof drain or downspout, sump pump, exterior foundation or footing drain, areaway drain, storm water drain or drainage tile, or any other source of surface run-off or groundwater, shall be connected with a public sanitary sewer, or with a building sewer or building drain which in turn is connected directly or indirectly with a public sanitary sewer, nor shall the storm drainage be directed to that portion of the lot which is adjacent to a street unless such flow follows an established ditch, storm drain, drainage easement or public stream.

**157.04 STORM WATER DISCHARGE.** Storm drainage shall be directed to an established ditch, storm drain, drainage easement or public stream. Storm water collected from roofs or other impervious areas shall be dispersed entirely upon the grounds of the owner of the contributing property, or it shall be

drained into ditches, storm drains or gutters on public right-of-way or drainage easements, or into public streams. In no event shall surface run-off, groundwater, or storm water be conveyed to or discharged into any portion of a City street other than directly into a storm drain. No building sewer or roof or footing drain outlets shall be covered or backfilled until the City's inspector has inspected the completed work

**157.05 ROOF DRAIN.** It is unlawful to discharge a roof drain, downspout, or leader into any sanitary sewer within the City. The owner of the building so connected as to permit such discharge shall disconnect or otherwise prevent such discharge. Any roof drain or other storm water or footing drain discharging into a sanitary sewer is a municipal infraction.

**157.06 SUMP PUMP CONNECTIONS.**

1. **New Construction.** All plans and construction of the sump pumps and footing drains shall be done in such a manner as to comply with all the requirements of this Code of Ordinances and the Urbana, Iowa Design Standards in disposing of all waters of any kind.

2. **Existing Structures.** No existing structure in the City shall have a sump pump operated in such a manner so as to allow the drainage from the pump to flow into the sanitary sewer system of the City. Violation of this provision shall be a municipal infraction. Drainage from the pump should conform to requirements for new construction, unless a variance is granted.

**157.07 RULES.** The Council may provide by resolution such further rules as necessary to clarify and implement the requirements of this chapter.

**157.08 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, or the collection and discharge of storm or surface water which 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.

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## CHAPTER 158

### SIGNS

158.01 Purpose  
158.02 Uniform Sign Code  
158.03 Definitions  
158.04 Permits

158.05 Location of Sign  
158.06 Temporary Signs  
158.07 Billboards  
158.08 Portable Signs and Pendants  
158.09 Prohibited Signs  
158.10 Violations

**158.1 Purpose.** The purpose of this Chapter is to provide minimum standards for the construction, erection and maintenance of signs to protect and safeguard life, health, property and public welfare and to preserve the character of the City, by regulating the size, height, design, quality of materials, construction, location, lighting and maintenance of signs and sign structures, to accomplish the following:

- A. Encourage a desirable and uniform City character with minimum of clutter;
- B. Provide for fair and equal treatment of all sign users;
- C. Provide a reasonable and comprehensive system of sign controls and regulation to ensure a high quality environment;
- D. Provide for public convenience by properly and efficiently directing people to locations and activities;
- E. Encourage well-designed signs as well as variety, design relationship, spacing, location and accommodation for new technology;
- F. Promote public safety by ensuring that traffic control and regulation devices be easily visible and free from obstruction, including blinking signs, excessive number of signs, signs resembling traffic signs and obstruction of official traffic signs.

**158.02 Uniform Sign Code.** The 2013 Uniform Sign Code is hereby adopted, by this reference, except for such portions as may hereinafter be deleted, modified or amended in this Ordinance. An official copy of the Uniform Sign Code will be on file in the office of the City Clerk.

**158.03 Definitions.** As used in this Chapter, the following terms shall be defined as follows:

A. **“Banners”** and **“pendants”** are temporary signs hung with or without frames, possessing characters, letters, illustrations or ornamentation applied to paper, plastic or fabric of any kind.

B. **“Billboard”** includes all structures, regardless of the material used in the construction of same, that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure is placed on the wall or painted on the wall itself, pictures or other pictorial reading material which advertise a business, public building, entity or attraction which is not carried on or manufactured in or upon the premises upon which the sign or billboard is located.

C. **“Changeable copy sign”** means a sign that is designed so that characters, letters or illustrations can be changed or rearranged, manually or automatically, without altering the face or surface of the sign.

D. **“Directional/informational sign”** means a freestanding sign giving directions, instructions or facility information and which may contain the name or logo of an establishment, but no advertising copy and are primarily parking, exit and entrance signs.

E. **“Directory sign”** is a permanent sign that displays the name of a building, building complex and/or the occupants.

F. **“Display surface”** is the area made available by the sign structure for the purpose of displaying the advertising message.

G. **“Electric sign”** is any sign containing electric wiring, but not including signs illuminated by an exterior light source.

H. **“Ground sign”** is a sign which is supported by one or more uprights or braces which is firmly and permanently anchored in or on the ground and which is not attached to any building.

I. **“Identification sign”** is a sign displaying the name, address, crest, insignia or trademark, occupation or profession of an occupant of a building or the name of any building on the premises.

J. **“Off-premises sign”** means a sign that advertises a product, service or facility, or directs a person to a different location than the one where the sign is installed.

K. **“On-premises sign”** means any sign identifying or advertising a business, person, activity, product or service located on the premises where the sign is installed and maintained.

L. **“Pole sign”** is a sign wholly supported by a sign structure in the ground.

M. **“Portable sign”** means any sign not permanently attached to the ground or to a building.

N. **“Roof sign”** is a sign erected upon or above a roof or parapet of a building or structure.

O. **“Sign”** means any medium, including its structure and component parts, which is used or intended to be used to attract attention to a subject matter, product, building, service or activity for advertising purposes or directional/informational for advertising/directional or informational purposes.

P. **“Sign on-site”** means an exterior sign displayed upon or against the wall of an enclosed building.

Q. **“Sign on-site - monument sign”** means a permanent freestanding sign where the sign is supported directly by a foundation or base.

R. **“Sign on-site – post sign”** means a portable sign or a sign which is supported by one or more columns, ropes or lines, upright, poles or branches extended from the ground or from an object on the ground, or a sign which is erected on the ground having no part of the sign attached to any building, structure or other sign.

S. **“Swinging sign”** is a sign which, because of its design, construction, suspension or attachment, is free to swing or more noticeably because of the wind.

T. **“Temporary sign”** means any sign, banner, pendant, valance or advertising display constructed of cloth, canvas, light fabric, chalkboard, wallboard, plywood or other light materials, with or without frames, intended to be displayed for a limited period of time.

**158.04 Permit.** Permits shall be obtained prior to the installation, alteration or relocation of any sign within the City. No permit is needed for the following signs:

- A. Real estate signs, no greater than three (3) square feet in area per side, that identify a property that is for sale.
- B. Construction and development signs which identify projects and contractors, provided the sign is maintained and removed following the completion of construction or development.
- C. Political signs announcing candidates seeking public office or signs announcing or advocating political issues of the type permitted and regulated by state and federal election laws.
- D. A nameplate not exceeding two (2) square feet in area located on-site on private property.
- E. Temporary signs as described and regulated herein, which are placed or erected by a person or organization, no more than (3) times per calendar year.
- F. Traffic signs or other signs of a public agency, such as railroad crossing signs and signs that warn of danger, hazards or unsafe conditions.
- G. Display of any official flag or emblem of a nation, state or city.
- H. City identification, welcome and entrance signs installed by the City.
- I. Any sign which is located within a building and not intended to be visible from outside the building.
- J. Grave markers, statues or remembrances of persons or events that are noncommercial in nature.
- K. Works of art which are not displayed in conjunction with a commercial enterprise for the principal purpose of commercial advertisement.
- L. Temporary decorations or displays celebrating a traditional patriotic or religious holiday.

M. Signs applied directly or attached directly to the body of a car, bus, trailer or other vehicle are exempt from regulations of this Chapter, if such vehicle has a valid registration, is utilized in the normal course of business or in the operator's usual routine activity and such vehicle is not used primarily for the display of such sign or signs.

N. Signs and notices that are legally required to be displayed, maintained or posted by law or by any court or government order, rule or regulation.

O. Informational signs, not exceeding three (3) square feet in surface area, displayed strictly for direction, safety or convenience of the public, including signs which identify restrooms, telephones, danger areas, parking area entrances or exits, freight entrances and similar messages.

A permit fee for all nonexempt signs shall be as set forth by City Council Resolution which may be amended from time to time at the Council's discretion.

**158.5 Location of Sign.** All signs within the City limits shall be on-premises signs, with the following exceptions:

A. Church or service club signs which are no more than a maximum of four (4) square feet of display area. The message content for such off-premises signs is restricted to the name of the church, club or organization, its location, hours of service or meeting and an official emblem. Any message in the nature of advertising is prohibited. The signs may only be located at the edge of the City limits where designated areas have been provided or as near to the building as needed to provide direction.

B. Portable signs, pendants, banners, etc., in accordance with Section 158.02 of this Chapter.

1. All signs shall be placed wholly upon private property and shall not overhang any public right-of-way.

2. Signs shall not obstruct or hinder the vision of pedestrians or motorists in any way.

C. Welcome signs owned and maintained by the City. Such signs are not restricted in height, size, design or materials and may be placed upon streets which serve as entrances to the City. They may be lighted in a manner approved

by this Chapter for any other sign controlled by this Chapter. The location, size, height, design and materials must be approved by the City Council. Prior to action by the Council, the Council may refer the sign issue to the Planning and Zoning Commission for its review and input. If a report from the Planning and Zoning Commission is not received by the City Council within sixty (60) days of the referral, the Council may proceed with action on the sign without such report.

### **158.06 Temporary Signs.**

A. A temporary sign is a sign, placard or other notice intended for display for only a limited time period. A temporary sign, including but not limited to garage sale signs, real estate open house signs, estate sale or auction sign and signs advertising property for sale or lease, shall be permitted, without a permit, notwithstanding any other provisions of the Urbana Code of Ordinances. A temporary sign shall not exceed 50 square feet.

B. Regulations:

1. Signs may be placed only by the owner of the property at which the sale is to take place or by the owner's representative.

2. No temporary sign that is located on public property shall be permitted to be placed more than seventy-two (72) hours in advance of the event advertised and any sign must be removed within seventy-two (72) hours after the event is completed. It is the obligation of the person for which the sign for such event that the sign is advertising to remove the sign in accordance with the regulations.

3. Temporary signs that are located on private property to advertise garage sales or open houses shall be required to comply with the same guidelines. Temporary signs located on private property that advertise property for sale or lease may be installed for a longer time period, but shall be removed within seventy-two (72) hours of completion of the lease or sale of the property.

### **158.07 Billboards.**

A. Billboards must comply with the following regulations:

1. The maximum height, including any lighting apparatus, shall not exceed fifty (50) feet above grade.

2. Billboards, which shall include any signs over three hundred (300) square feet, shall not exceed six hundred seventy-two (672) square feet per side and shall have no more than two (2) faces per side.

3. Minimum clearance shall be ten (10) feet above grade.

4. Billboards shall comply with setbacks established for the zoning district in which they are located and by state and federal regulations that shall govern the areas in and adjacent to state and federal highways.

5. Billboards may only be located on commercial or industrial properties adjacent to state and/or federal highways.

6. No part of the billboard structure shall be located within one thousand (1,000) feet of any other billboard. In addition, no sign or structure shall be located within one hundred (100) feet of any lot zoned for residential use or within one hundred (100) feet of any lot which is used for a public park, school, church, funeral home, library, designated historic building or district.

7. Abandoned or obsolete billboards shall be removed within thirty (30) days following written notice from the City.

**B. Other Ordinances.** If any provisions of this section shall be in conflict with the provisions contained in the Uniform Sign Code, the provisions of this section shall apply. Otherwise, billboards must comply with the provisions of the Uniform Sign Code.

### **158.08 Portable Signs and Pendants.**

A. Portable signs shall not exceed fifty (50) square feet in sign area.

B. Banners, ribbons, pendants, twirling signs, balloons and other portable signs and other similar devices shall be permitted in a commercial or industrial district for a period not to exceed thirty (30) days, when used in conjunction with the opening or closing of a business, special celebration or other temporary event related to the business.

C. The Council, upon written request, may approve the time a community benefits banner, such as a centennial celebration banner or banner

which identifies a City-wide event, may be erected, up to a maximum of eight (8) months.

D. A permit shall be issued for portable signs, signs on-site – post signs and off-premises signs. Such portable signs, banners and/or pendants shall be removed immediately upon the expiration of no greater than thirty (30) days.

E. No portable signs, banners and/or pendants shall be permitted on the same property within the ensuing six (6) month period after the expiration of the thirty (30) day open house or celebration period previously advertised.

F. This section is not intended to prohibit banners located on City-owned poles, as approved by the Council.

G. A nonprofit organization may be granted a permit for placing temporary off-site signs to be used to advertise an event, provided:

1. The event is of a nature that can be considered to be of general public interest.

2. The signs are not set in place more than thirty (30) days before the event and shall be removed by the sponsor no later than twenty-four (24) hours immediately following the event.

3. The signs are placed on private property with the consent of the owner.

4. The sign is not placed on or does not overhang any public right-of-way and is not placed on any public property other than the public property on which the event may be taking place.

5. The signs do not obstruct visibility near corners or driveways as provided for in other sections of this Code.

6. There are no more than five (5) signs to be placed under a permit for a single event.

7. The application for the permit identifies the location and number of signs to be installed. There will be no charge for the permit.

8. The size of the sign is limited to sixteen (16) square feet.

9. The sign is not lighted or illuminated either internally or externally in any way.

**158.09 Prohibited Signs.** The following signs are expressly prohibited within the City:

A. Any sign that makes use of beacon lights, flashing, blinking or traveling lights, with reflectors or reflecting materials used to increase the intensity of the sign illumination.

B. Any sign or portion thereof that moves or assumes any motion constituting a non-stationary condition. This requirement is not intended to prohibit any form of signage attached to a motor vehicle.

C. Swinging signs over twenty-four (24) square inches.

D. Any sign having an element that turns on or off or otherwise changes its appearance faster than once in five (5) seconds.

E. No sign or sign structure other than an official traffic, street, welcome or related sign approved for placement by the City shall be placed on any street or highway right-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

F. No sign or sign structure shall be placed on private or public property without the consent of the owner or authorized agent thereof.

G. No roof signs shall be allowed.

H. Any sign attached to or placed on a vehicle or trailer parked on public or private property is prohibited. The prohibition of this section does not prohibit the identification of a firm or its principal products on a vehicle operated during the normal course of business.

**158.10 Violations.** It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use or maintain a sign or sign structure within the City limits, or cause or permit the same to be done, contrary to or in violation of the provisions of this Chapter. Each violation shall constitute a separate offense, each day of violation shall constitute a separate offense. The City may enforce the provisions of this

Ordinance and violations thereof through use of a simple misdemeanor criminal citation or municipal infraction citation.

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## CHAPTER 159

### SWIMMING POOLS

159.01 Enforcement Officer	159.06 Permit Required
159.02 Definitions	159.07 Plumbing
159.03 Outdoor Swimming Pool Requirements	159.08 Shielding Lights
159.04 Indoor Swimming Pool Requirements	159.09 Penalty
159.05 Setback Regulations	

**159.01 ENFORCEMENT OFFICER.** The Building Inspector is responsible for the enforcement of this chapter.

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

1. “Barrier” is a fence, wall, building wall or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.
2. “Front yard,” “side yard” and “rear yard” have the same definitions as in the Zoning Ordinance for the City.
3. “Grade” is the underlying surface such as earth or a walking surface.
4. “Hot tub” – see definition of “swimming pool.”
5. “In-ground pool” – see definition of “swimming pool.”
6. “Residential property” includes any properties located within the various residential zoning classifications as defined in the Zoning Ordinance for the City.
7. “Separation fence” is a barrier which separates all doors of a dwelling unit with direct access to a swimming pool from the swimming pool.
8. “Spa” – see definition of “swimming pool.”
9. “Swimming pool, indoor” is a swimming pool which is totally contained within a residential structure and surrounded on all four sides by walls of said structure.
10. “Swimming pool, outdoor” is any swimming pool which is not an indoor pool.
11. “Swimming pool” is any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This

includes in-ground, aboveground and on-ground swimming pools, hot tubs, portable and non-portable spas and fixed-in-place wading pools. Temporary “softside” swimming pools that are periodically and/or seasonally installed and removed are excluded from this definition and do not require a permit.

**159.03 OUTDOOR SWIMMING POOL REQUIREMENTS.** An outdoor swimming pool shall be provided with a barrier that shall be installed prior to filling the pool with water. The barrier shall comply with all requirements contained in Chapter 41, - BARRIERS FOR SWIMMING POOLS, SPAS AND HOT TUBS of the 2003 *International Residential Code*.

**159.04 INDOOR SWIMMING POOL REQUIREMENTS.** For an indoor swimming pool, protection shall comply with the requirements of Section 159.07.

**159.05 SETBACK REGULATIONS.** Swimming pools shall conform to setback requirements of the various residential zones in which they are located with the following modifications:

1. No pools will be allowed in front yards.
2. Side yard setbacks shall remain as specified for each of the different residential zoning classifications.
3. Rear yard setbacks for pools shall be 15 feet.

**159.06 PERMIT REQUIRED.** A swimming pool permit shall be required prior to installation of a swimming pool with the permit to be issued by the Building Inspector. Each swimming pool permit shall cost \$50.00. In the event the permit applicant requests a variance from one or more of the requirements of this chapter, the request for the variance will be submitted to the Board of Adjustment for determination.

**159.07 PLUMBING.** All cross connections between the City water supply or the sewer system and the plumbing of the pool shall be prohibited.

**159.08 SHIELDING LIGHTS.** Lights and lighting used to illuminate any swimming pool and surroundings shall be so arranged and shaded as to reflect light away from the adjoining properties.

**159.09 PENALTY.** Any person who violates or permits the violation of this chapter is guilty of a municipal infraction and is subject to the provisions herein regarding civil penalties and alternative relief.

**159.10 2<sup>nd</sup> METERS.** No adjustments will be made to the sewer charges when filling a pool with City Water. If you install a pool you may want to consider installing a 2<sup>nd</sup>

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# CHAPTER 165

## ZONING REGULATIONS

## EDITOR'S NOTE

Ordinance No. 281 entitled "Zoning Ordinance for the City of Urbana, Iowa," adopted November 24, 1997, and amendments thereto are contained in the appendix of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Zoning Regulations of the City.

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## CHAPTER 166

### SUBDIVISION REGULATIONS

166.01 Purpose	166.20 Parks and Open Space
166.02 Application	166.21 Parks and School Sites Reserved
166.03 Recording of Plat	166.22 Non-Residential Subdivisions
166.04 Fees Established	166.23 Pre-Application Conference
166.05 Penalties	166.24 Sketch Plan Required
166.06 Building Permit to be Denied	166.25 Presentation to Planning Commission
166.07 Terms Defined	166.26 Subdivision Classified
166.08 Improvements required	166.27 Plats Required
166.09 Inspection	166.28 Requirements of the Preliminary Plat
166.10 Minimum Improvements	166.29 Procedures of Review of Preliminary Plats
166.11 Easements Required	166.30 Duration of Approval of Preliminary Plat
166.12 Maintenance Bond Required	166.31 Authorization to Install Improvements
166.13 Standards Prescribed	166.32 Transfer of Lots Without Construction
166.14 Land Suitability	Improvements
166.15 Lands Subject to Flooding	166.33 Completion and Acceptance of Improvements
166.16 Plat to Conform to Community Development Plan	166.34 Performance Bond Permitted
166.17 Construction Standards for Improvements	166.35 Requirement of the Final Plat
166.18 Street Standards	166.36 Waivers and Exceptions
166.19 Block and Lot Standards	166.37 Changes and Amendments

**166.01 PURPOSE.** The purpose of this ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the general planning of the community and to promote the public health, safety and general welfare of the citizens of the City of URBANA, Iowa.

**166.02 APPLICATION.** No plat or subdivision in the City subject to control of the City under Section 354.9 of the Code of Iowa 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 Council as prescribed in this chapter. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two (2) or more parts, (excepting acquisition plans as defined in Section 2.01.1) for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or a two (2) mile radius from the current City corporate limits, or from any other agreement with Benton County, Iowa, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots herein contained or placing the plat on record. The City of URBANA is granted the authority to review said proposed subdivisions outside the city limits by Section 354.9 of the Code of Iowa.

**166.03 RECORDING OF PLAT.** No subdivision plat, or street dedication within the City of URBANA, Iowa, or within a two (2) mile radius of the current city corporate limits, or within the area of any other County Agreement(s) shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, or street dedication has been reviewed and approved in accordance with the provisions of this ordinance.

Upon the approval of the final plat by the City Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and a copy of the recorded plat filed with the City Clerk within such thirty (30) days.

**166.04 FEES ESTABLISHED.** The City Council shall, from time to time establish by resolution, fees for the review of plats. No plat for any subdivision shall be considered filed with the City Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the City Council, and as required by this ordinance.

**166.05 PENALTIES.** Any person or persons, as owner or agent, who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved by the City Council, and recorded as required by law, shall forfeit and pay one thousand dollars (\$1000.00) to the City for each lot or part of lot sold, disposed of or offered for sale, the violator will also be subject to a simple misdemeanor or municipal infraction for each lot sold in violation of this provision. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this ordinance. These remedies include, but are not limited to, the city's ability to institute an action for injunction, mandamus or other appropriate action or proceeding to prevent any pending disposal or offer of sale, or to prevent any further disposal or offer to sale in violation of this ordinance.

**166.06 BUILDING PERMIT TO BE DENIED.** No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by the ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this ordinance, and until the improvements (except sidewalks adjoining any or all lots) required by this

ordinance have been accepted by the City or other provision have been made in writing with the City regarding the completion of improvements.

A building permit may be issued without the establishment of sidewalks in place. However, before any occupancy of the subdivided property occurs, the permit holder must install all sidewalks as required by this ordinance or obtain a waiver of the requirement from the City regarding the same.

**166.07 TERMS DEFINED.** For the purposes of this ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the masculine gender shall include the feminine, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's plat" means a subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, the boundary of the subdivision, or a combination of thereof.

6. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the City Council or other hiring authority.

7. "Community Development Plan" means the general plan or series of plans, if any, for the development of the community, that may be titled master

plan, land use plan, comprehensive plan or some other title, which plan has been adopted by the City Council. Such "Community Development Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

8. "Conveyance" means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.

9. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

10. "Design Standards" means the City of URBANA, Iowa Technical Standards For Public Improvements as adopted by Resolution and as may be from time-to-time amended thereafter by action of the City Council.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.

12. "Easement" means an authorization by a property owner for another entity or utility to use a designated part of the property for a specified purpose.

13. "Flood hazard area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa National Resources Council or the Federal Insurance Administration.

14. "Flood Plain Management Ordinance" means an ordinance regulating the development of all property located within a flood plain as shown on the FEMA flood plain map for the City of URBANA. No provision of this Ordinance shall vary the terms and conditions of the Flood Plain Management Ordinance.

15. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

16. “Forty-acre aliquot part” means one-quarter of one-quarter of a section.
17. “Government lot” means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
18. “Improvements” mean changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainage ways, and other public works and appurtenances.
19. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.
20. “Lot, Corner”: means a lot situated at the intersection of two streets.
21. “Lot, Double Frontage” means any lot that is not a corner lot that abuts two streets.
22. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
23. “Official plat” means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the county recorder, auditor, and assessor.
24. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
25. “Parcel” means a part of a tract of land.
26. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to section 441.29 of the Code of Iowa.
27. “Planning and Zoning Commission” or “Commission” means the appointed commission designated by the City Council for the purpose of this

ordinance, and may also be the zoning commission, in which case such commission shall be known as the Planning and Zoning Commission.

28. "Plat" means a map drawing, or chart on which a subdivider's plan as prepared in accordance with this ordinance for the subdivision of land to be presented, that he or she submits for approval and intends, in final form, to record. Preliminary and Final Plats are required.

29. "Plats Officer" means the individual assigned the duty to administer this ordinance by the City Council or other appointing authority.

30. "Plat of survey" means the graphical representation of survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor, in accordance with the current Iowa Code.

31. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

32. "Street" means public property or right-of-way dedicated to and accepted for the public use, which affords the principal means of access to abutting property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

33. "Street, Arterial" means a street primarily intended to carry traffic from cross-town or through traffic, and not intended to provide access to abutting property.

34. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

35. "Street, Local" means a street primarily designed to serve as a means of access to abutting property. They are intended to be low speed (less than or equal to 25mph) and short trip routes, with usually less than 500 vehicles per day use.

36. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

37. “Subdivision” means the division of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context may refer to the process of subdividing or to land subdivided.

38. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

39. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the Code of Iowa.

40. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

41. “Utilities” means the systems for the distribution or collection of water, gas, electricity, telephone, cable, wastewater, and storm water.

**166.08 IMPROVEMENTS REQUIRED.** The subdivider shall, at his or her expense, install and construct all improvements required by this ordinance and the Design Standards of the City of URBANA and as generally shown on the preliminary plat within the subdivision proper. All required improvements shall be constructed in accordance with the aforementioned design standards established for such improvements and shall be reviewed by the City and the City Engineer.

A) Urban Renewal Area Exception: The City may consider waiving portions of Section 3.01 if all of the following circumstances exist:

1) The subdivision is located within an active urban renewal area eligible for tax increment reimbursement, and;

2) The subdivider can demonstrate how the City's participation in cost sharing for improvements within the subdivision will achieve the goals and objectives of the urban renewal area, and;

3) The subdivider is prepared to offer the City an infrastructure improvement, property, or service that is equal or commensurate to the City's financial contribution and meets the stated goals and objectives of the City's Urban Renewal Plan.

B) In all cases, the subdivider shall extend municipal utilities and services to the edge of a subdivision.

**166.09 INSPECTION.** All improvements shall be inspected to insure compliance with the requirements of this ordinance by the City Engineer. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City. Reimbursement for said costs shall be received prior to Final Plat approval.

**166.10 MINIMUM IMPROVEMENTS.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

All of the minimum improvements mandated by this section shall be designed and constructed in accordance with the requirements of this ordinance, the URBANA Design Standards, Iowa Department of Natural Resources (IDNR), and the minimum requirements of all other applicable state or federal regulatory agencies or departments.

The subdivider must provide evidence of any and all construction permits, highway or road easements and access, or other appropriate documentation from state or federal regulatory agencies prior to approval of the final plat. Easements from all utility companies will also be required.

The City reserves the right to request changes to a proposed subdivision that may exceed the municipal capacities for streets, sewer, water, or other services. In this event, the City may request a proportional fee from the subdivider, to be determined by the City and the City Engineer, for any required capacity improvements.

A) Streets in General. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets.

1) Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall,

upon final approval and acceptance by the City, become the property of the City. The street shall be constructed in compliance with the City of URBANA, Iowa Design Standards.

B) Sanitary Sewer System in General. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewer. The City's role in reviewing the plans is to determine the sanitary sewer's placement, size, and route. The Sanitary Sewer System shall be constructed in compliance with the City of URBANA, Iowa Design Standards and IDNR requirements.

1) Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

2) The City's inability to efficiently collect or treat waste water may be grounds for rejection of a proposed subdivision. A proportional fee may be requested by the City, from the subdivider, to pay for the necessary upgrades in the sewer system.

3) The sewer system improvements shall, upon inspection, approval and acceptance by the City, become the property of the City.

4) The subdivider must provide evidence of construction permits from the Iowa Department of Natural Resources, or any other permitting agency that has jurisdiction prior to approval of the final plat.

C) Storm Sewer System: The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The Storm Sewer System

shall be constructed in compliance with the City of URBANA, Iowa Design Standards.

1) Storm sewer facilities shall be located in the road right-of-way where feasible, or in the perpetual unobstructed easements of appropriate width.

2) In the storm sewer design phase, the subdivider shall study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. The subdivider's drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the City Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

3) The subdivider must document that adequate storm detention is included in the storm sewer design by submission of design calculations with the Preliminary Plat. This may require work outside of the proposed subdivision's boundaries which is the sole responsibility of the subdivider. The City may require this work to be undertaken to protect surrounding properties as a condition for approval of the subdivision.

4) The storm sewers shall, upon inspection, approval and acceptance by the City, become the property of the City. However, may not own any detention basin or other storage facility and may require written provisions for the maintenance of the facility.

D) Water Main System in General: The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City's existing water mains. The minimum acceptable standard for water main design will be the same as the IDNR for applicable uses and fire flows. The Water Main System shall be constructed in compliance with the City of URBANA, Iowa Design Standards with special provisions to meet the Iowa Department of Natural Resources requirements.

1) The subdivider shall install adequate water facilities, and fire hydrants which shall be subject to City specifications and shall be subject for review and approval by the URBANA Fire Chief for possible locations to be constructed, if applicable, dry hydrant locations.

2) All Iowa Department of Natural Resources permits must be secured prior to construction or approval of the final plat.

3) Under some circumstances the city may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete a city water distribution system sometime in the future as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area. Refer to the City of URBANA, Iowa Design Standards.

E) Other Improvements: The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within all street right-of-way areas; the installation of compliant erosion control measures; all other utilities that serve the City; and the installation of street lighting. All such improvements shall be under the direction of the City Engineer. All improvements are addressed in the City of URBANA, Iowa Design Standards shall be constructed.

#### **166.11 EASEMENTS REQUIRED.**

A) Public Utilities: The flexible placement of easements for public utilities shall be allowed, however, such placement shall be subject to the review of the Governing Body and all applicable utility companies prior to approval of the final plat. All utilities to serve each lot shall be placed in a common easement. Said easements shall be at least ten (10) feet in width. Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of all utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

B) Easements Along Streams and Watercourses: Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement

equal to the floodway along said stream or watercourse to ensure the proper maintenance of the watercourse, as approved by the City.

**166.12 MAINTENANCE BOND REQUIRED.** The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds satisfactory to the City, so as to insure that for a period of two (2) years from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair. **The City may, at its sole discretion, accept alternative sureties to maintenance bonds to insure the workmanship of the improvements accepted by the City.**

**166.13 STANDARDS PRESCRIBED.** The standards set forth in this ordinance and those contained in the **Design Standards** shall be considered the minimum standards necessary to protect the public health, safety, and general welfare. These standards should also be considered in accordance with the requirements of applicable state and federal agencies. In the event that the City's minimum standards should conflict with applicable state and federal requirements, the state and federal requirements shall prevail.

**166.14 LAND SUITABILITY.** No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City.

If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the City Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the City Council may reaffirm, modify or withdraw its determination regarding such unsuitability.

**166.15 LANDS SUBJECT TO FLOODING.** No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City unless it is demonstrated that the subdivision complies with all requirements of the URBANA Flood Plain Management Ordinance. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area, not within the floodway or flood hazard area, suitable for development as allowed by the zone in which the lot is located. Those areas subject to flooding shall be determined by the U.S. Federal Emergency Management Agency (FEMA) flood plain map for the City of URBANA.

Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City.

A) Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.

B) If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

**166.16 PLAT TO CONFORM TO COMMUNITY DEVELOPMENT PLAN.** The arrangement, character, extent, width, grade and location of all streets shall conform to the design standards for such streets as approved by the City Council. The general nature and extent of the lots and uses proposed shall conform to the Community Development Plan of the City, provided such plan has been adopted by the City; and may also conform to such other plans as Future Land Use or any other conceptual Plan determined at the time by the City.

**166.17 CONSTRUCTION STANDARDS FOR IMPROVEMENTS.** In addition to any standards set forth in this ordinance the subdivider shall be governed by the provisions of the City of URBANA, Iowa Design Standards. The Design Standards shall have such force and effect as if they were fully set forth herein.

**166.18 STREET STANDARDS.** The City of URBANA, Iowa Design Standards shall govern all standards for the construction of streets, driveways, sidewalks, and other utilities as provided therein unless specifically contradicted by the terms of the Subdivision Ordinance.

A) General: The following standards shall apply to all streets to be located within the subdivision:

1) Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining un-platted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Plan, the plat shall provide for such street.

2) Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.

3) Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.

4) Street right-of-way widths and pavement widths shall be as specified in the design standards for public improvements.

5) Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

6) Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.

7) Street jogs with centerline offsets of less than (125) one hundred twenty five feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.

8) Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty (60) degrees.

9) At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

10) Dead end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed. A temporary turn around easement on the adjacent lots at the dead end shall be included until such time the street is extended. A minimum right-of-way easement diameter of one hundred (100) feet shall be provided.

11) Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted if there are no other feasible alternatives available.

12) In general, alleys shall not be permitted in residential areas and shall be required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

13) When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and adequate utility connections. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the City Council, be made a requirement of the plat.

14) Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the City Council.

15) Private streets shall be prohibited. The City Council may approve a waiver to this rule where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

B) Railroads and Limited Access Highways: Railroad right-of-ways and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

1) In all districts a buffer strip at least fifty (50) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way. A buffer strip at least twenty (20) feet in depth in addition to the normal depth of the limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

2) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least two-hundred twenty five (225) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

**166.19 BLOCK AND LOT STANDARDS.** The following standards shall apply to the layout of blocks and lots in all subdivisions:

A) No residential block shall be longer than thirteen hundred (1,300) feet or shorter than three hundred (300) feet measured from street line to street

line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.

B) In blocks over seven hundred (700) feet in length, the City Council may require a public way or an easement at least ten (10) feet in width, at or near the center of the block, for use by pedestrians.

C) The size and shape of lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the zoning ordinance.

D) Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

E) All lots shall comply with all requirements of the zoning ordinance applicable to the zone in which the lot is located.

F) All lots shall abut a public street or an approved private street.

G) Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

H) All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the City Council, a waiver of this provision will provide a better street and lot layout.

I) Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on minor streets.

**166.20 PARKS AND OPEN SPACE.** All subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. The following standards and procedures will be used to determine the park and open space requirements for all proposed developments or subdivisions greater than 1/2 acre in size within the City of URBANA:

A) For all developments and subdivisions, the subdivider shall be responsible for providing adequate park and open space in one or both of the following ways, depending on the decision of the City of URBANA.

1) If it is feasible and compatible with the Plan of the City of URBANA, as determined by the City Council upon the recommendation of the Planning and Zoning Commission, the subdivider will be required to dedicate and reserve an area for parks and open space, without cost to the City.

a) The amount of land shall be determined by first calculating the entire size of the land area of the proposed development as shown on the preliminary plat or site plan and then to require dedication or reservation of five percent (5%) of this amount for parks and open space.

b) This area shall be denoted on the final plat prior to approval of the final plat.

2) Where such dedication is not feasible or compatible with the Plan, as determined by the City Council upon recommendation of the Planning and Zoning Commission, the subdivider shall, in lieu thereof, pay to the City a fee or combination of fee and land, equivalent to the value of the required dedication or reservation to be determined and used in the following manner:

a) The City Council, upon recommendation of the Planning and Zoning Commission, shall determine the size of the land area which it would have required to set aside for parks and open space (5% of the total land area).

b) The cash value of said land shall be determined by taking the total purchase price or cost of all the land in the proposed subdivision and charge the owner the proportionate value of the land area so designated; based upon such purchase price or cost; provided such purchase price or cost is the current fair and reasonable value of the land. If such purchase price or cost does not reflect the current fair value of the land, the fair value of said land shall be determined by an impartial appraisal, and in such manner as may be designated by the City Council, cost for said appraisal to be shared equally between the subdivider and the City.

c) All funds so levied, assessed, and collected by the City shall be deposited in a special fund to be known as the "Special Fund for the Acquisition and Development of Public Service Areas, Open Space and Recreational Facilities", and that said funds so levied and collected shall be used for such purposes at such places and in such a manner as

shall be approved, ordered and directed by a recreation committee appointed by the City Council.

Any interest accumulated upon such funds shall be added to the "Special Fund" and be used only for acquisition and developments of open space and recreational facilities.

B) At the time of the preliminary plat approval, the City Council, upon recommendation by the Planning and Zoning Commission, shall determine whether to require a dedication of land within the subdivision or the payment of a fee, in lieu thereof, or a combination of both, from the subdivider, for parks and open space.

C) Where a dedication is required, it shall be accomplished with a properly executed Warranty Deed dedicating the required land to the City without cost to the City. Where a fee, in lieu of dedication is required, the fee shall be deposited with the City Clerk. Whichever action is required, it shall be accomplished prior to the approval of the final plat.

D) The determination by the City of whether to require dedication of land, or a fee, in lieu thereof, shall be based on the following:

1) Recreational element of the City's Plan.

2) Topographic and geologic conditions and access and location of land in subdivision available for dedication

3) Size and shape of the subdivision and land available for dedication.

4) The relation of the subdivision to the Plan map, particularly as such plan map may show proposed public service areas, open space and recreational areas.

5) The character and recreational needs of the neighborhood in which the subdivision is located.

6) The unsuitability in the subdivision for open space and recreational purposes by reason of location, access, greater cost of development and maintenance.

7) The possibility that land immediately adjoining the subdivision will serve in whole or in part the public service area, open space, and recreational needs of such subdivision.

8) Any and all other information relevant to a proper determination.

The determination of the City Council as to whether land shall be dedicated or reserved or a fee shall be charged, or a combination thereof, shall be final and conclusive.

**166.21 PARKS AND SCHOOL SITES RESERVED.** When a tract being subdivided includes lands proposed to be parks or school sites in the Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

A) Proposed park sites shall be reserved for three (3) years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three (3) years, the subdivider may then amend the final plat.

B) Proposed school sites shall be reserved for three (3) years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three (3) years, the subdivider may then amend the final plat.

**166.22 NON-RESIDENTIAL SUBDIVISIONS.** The following provisions shall apply to nonresidential subdivisions:

A) General. If a proposed subdivision includes land that is used for commercial or industrial purpose, the layout of the subdivision with respect to

such land may be subject to additional provisions as the City Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the City Council, and shall conform to the proposed land use and standards established in City Plans and regulations.

B) Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the City that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. In addition to the design standards, the following principles and standards shall be observed:

1) Proposed industrial or commercial parcels shall comply with the zoning ordinance.

2) Street rights-of-way width and pavement thickness shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

3) Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer, and storm water drainage and detention.

4) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

5) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

**166.23 PRE-APPLICATION CONFERENCE.** Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a pre-application conference with the City Clerk. The conference should be attended by the Mayor or other Officer(s) and such other City or Utility representatives as is deemed desirable; and by the owner and his engineer or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems related to the proposed subdivision.

**166.24 SKETCH PLAN REQUIRED.** For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

**166.25 PRESENTATION TO PLANNING COMMISSION.** The subdivider may present the sketch plan to the Planning Commission for review, prior to incurring significant costs preparing the preliminary or final plat.

**166.26 SUBDIVISION CLASSIFIED.** Any proposed subdivision shall be classified as a minor subdivision or a major subdivision, and according the provisions of any Agreements with Benton County if applicable.

A) Minor Subdivision: Any subdivision that contains not more than three (3) lots fronting on an existing developed street or private drive and that does not require state permit approval for construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.

B) Major Subdivision: Any subdivision that, in the opinion of the City Council, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

**166.27 PLATS REQUIRED.** In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the city, plats and other information as required by this ordinance and design standards. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision may elect to combine the requirements of the preliminary and final plats into a single document subject to the County Auditor's approval.

**166.28 REQUIREMENTS OF THE PRELIMINARY PLAT.** The subdivider shall prepare and file with the City Clerk twenty (20) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

- A) Title, scale, north point and date.
- B) Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the county.
- C) The name and address of the owner and the name, address and profession of the person preparing the plan.
- D) A key map showing the general location of the proposed subdivision in relation to surrounding development.
- E) The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of un-platted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.
- F) The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
- G) Existing and proposed zoning of the proposed subdivision and adjoining property and identification of the Plan or Agreement designations where relevant.
- H) Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater.
- I) Identification of any flood plain areas and 100 feet year flood elevation, and the flood plain alpha-numeric designation within the subdivision.
- J) The legal description of the area being platted.
- K) The boundary of the area being platted, shown as a dark line with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.

- L) The layout, numbers and approximate dimensions of proposed lots.
- M) The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
- N) The proposed names for all streets in the area being platted.
- O) Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, cable utilities, telephone utilities, street lighting and other facilities, and their connections to existing utilities.
- P) Proposed easements, showing locations, widths, purposes and limitations.
- Q) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Plan or other adopted plans.
- R) A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
- S) Any other pertinent information, as necessary.
- T) The fee, as required by this ordinance and from time to time be changed by resolution.
- U) All initial developments (phase one) and all future planned developments within the area (phase two, phase three, etc.). Failure to completely identify all proposed developments in the subdivision area will be grounds for rejecting the plat.

#### **166.29 PROCEDURES OF REVIEW OF PRELIMINARY PLATS.**

- A) The City Clerk, upon receipt of twenty (20) copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat as provided herein.
- B) The City Clerk shall provide copies of the plat to the City Engineer, to the City Attorney, and such other persons as necessary to review

the plat; and shall schedule the plat for consideration by the Planning Commission.

C) The Planning Commission shall examine the plat and the reports of the City Engineer and City Attorney, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Plan and other duly adopted plans of the City. The Planning Commission shall, within forty-five (45) days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the City Council. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the subdivider.

D) The City Council shall examine the plat, the reports of the City Engineer and City Attorney, the report of the Planning Commission, and such other information as it deems necessary or desirable. Upon such examination, the City Council shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the City Council may approve, approve subject to conditions, or disapprove the plat. If the decision of the City Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the City Council, and such decisions shall be provided to the subdivider. Action on the preliminary plat by the City Council shall be taken within sixty (60) days of the filing of the plat with the City Clerk.

**166.30 DURATION OF APPROVAL OF PREMILINARY PLAT.** The approval of a preliminary plat by the City Council shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the City Council.

**166.31 AUTHORIZATION TO INSTALL IMPROVEMENTS.** The approval of the preliminary plat shall constitute authorization by the City Council for the installation of improvements as required by this ordinance, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvements as defined in the design standards have been submitted to, and approved in writing by, the City

Engineer and all necessary permits have been issued from all the appropriate State and Federal agencies (e.g., IDNR, IDOT, etc.).

**166.32 TRANSFER OF LOTS WITHOUT CONSTRUCTING IMPROVEMENTS.** In the event the subdivider, its assigns or successors in interest, should transfer lots in a subdivision without having constructed or installed the pavement, water mains, sanitary sewer, storm sewers, sidewalks, private utilities or other public improvements, the City shall have the right to install and construct such improvements and the costs of such improvements shall be lien and charge against all the lots adjacent to or in front of which the improvements are made and lots which may be assessed for improvements under the provisions of Chapter 384 of the Code of Iowa. The cost of such improvements need not meet the requirements of notice, benefit or value as provided by state law for assessing such improvements. In addition, the requirement to construct such improvements is, and shall remain, a lien on all property located within the subdivision until properly released by the city.

**166.33 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS.** Before the City Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City standards, specifications and ordinances or other city requirements, and any agreements between the subdivider and the City.

**166.34 PERFORMANCE BOND PERMITTED.** In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond satisfactory to the City, guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.

**166.35 REQUIREMENT OF THE FINAL PLAT.** The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, twenty (20) copies of the final plat and required attachments, as set forth in this ordinance. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the City Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. Copies of the Final Plat shall be distributed to the City Engineer and the City Attorney for their review and upon

completion of same, the City Engineer and City Attorney shall report the findings of their review to the City Council for its consideration regarding acceptance of the Final Plat by resolution. All resolutions approving final plats shall be recorded by the subdivider, with copies of the recorded documents to be provided to the City Attorney.

The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") nor smaller than eight and one-half inches by eleven inches (8-1/2" x 11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

The final plat shall be clearly marked "Final Plat" and shall show the following:

- A) The name of the subdivision.
- B) Name and address of the owner and subdivider.
- C) Scale, and a graphic bar scale, north arrow and date on each sheet.
- D) All monuments to be of record, as required by Chapter 355, Code of Iowa.
- E) Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.
- F) All distance bearing, curve, and other survey data, as required by Chapter 355, Code of Iowa.
- G) All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of the subdivision shall be shown. If the subdivision platted is part of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made.
- H) Street names and clear designation of public alleys.
- I) Block and lot numbers.

J) Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.

K) The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

L) All interior excepted parcels, clearly indicated and labeled, "not a part of this plat."

M) A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the City Council.

N) The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:15,000 for any individual lot.

O) A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

P) Certification by the local public utility companies that the location of utility easements are properly placed for the installation of utilities.

Q) Certification of dedication of streets and other public property and perpetual easements for the installation, operation, and maintenance of utilities.

R) Contain a signature block for the signature of the Mayor certifying the City Council's approval of the plat.

S) Show any provisions provided by the Code of Iowa.

T) Show appropriate date of IDNR & City approval of flood plain permits when specific lots within the subdivision are proposed for development within the one-hundred year flood plain boundary. Indicate each proposed dwellings lowest occupied elevation on each lot.

U) The final plat should also have the following accompanying instruments:

i. An opinion by an attorney at law who has examined the Abstract of Title for the land being platted, stating the names of the proprietors and holders of mortgages, liens, or other encumbrances, along with any bonds securing the encumbrances.

ii. 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 in an amount double of the amount encumbrance and approved by the recorder and clerk of district court and which runs to the county for the benefit of purchasers of lots within the plat may be recorded in lieu of the consent of mortgagee or lienholder. When a mortgagee or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City Council or dedicated to the public.

iii. A certificate of the 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 a bond double in the amount of the lien and approved by the recorder and clerk of district court and which runs to the County for the benefit of purchasers of lots within the plat and filed with the recorder.

iv. 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 acknowledgment of deeds. The statement by the proprietors shall also include a dedication to the public of all lands within the plat which are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the City Council.

v. A petition signed by the owner and his or her spouse petitioning the City Council to pave any streets abutting such subdivision which petition waives notice of time and place of hearing and waives statutory protections and limitations as to the cost and assessment of improvements.

vi. A certificate from the county auditor that the name or title of the subdivision plat is approved by the county auditor.

vii. The subdivider shall provide CAD format reproductions of the plats to the City Engineer.

viii. The subdivider shall have completed all payments to the City for City Engineer's inspection costs incurred to the date of submission of the final plat.

**166.36 WAIVERS AND EXCEPTIONS.** The following shall apply to the granting of waivers or exceptions:

A) Hardships. Where the City Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make waivers or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such waiver or exceptions to these regulations meets the following criteria:

1) The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

2) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable, generally, to other property.

3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

4) A variance may not be granted solely on the basis of the subdivider's desire to earn a greater profit on the property.

B) Conditions. In granting waivers and exceptions, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

C) Procedure for Waiver or Exception. A petition for any such variation or exception shall be submitted in writing by the developer at the time

when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The petition shall be referred to the Planning and Zoning Commission for its review and recommendation prior to submission of the issue to the City Council.

**166.37 CHANGES AND AMENDMENTS.** Any provisions of these regulations may be changed and amended from time to time by the City Council, provided that such changes and amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Planning Commission for study and recommendation before the hearing date is scheduled. The Planning Commission shall forward its recommendation to the Council within thirty (30) days after the City Council requests the recommendation. The City Council shall then give notice of and hold a public hearing on the proposed amendment.

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## CHAPTER 167

# EROSION AND SEDIMENT CONTROL FOR DEVELOPMENT SITES

167.01 Purpose

167.02 Definitions

167.03 Erosion and Sediment Control Plan Required

167.04 Review and Approval Procedure

167.05 Land Disturbing Activities Requirements

167.06 Fees Established

167.07 Penalties

**167.01 PURPOSE.** Soil erosion from development sites contribute to the impairment of drainage facilities, increased road and storm sewer maintenance costs, destruction and obstruction to traveled roadways creating a potential hazard for vehicular traffic, degradation of land surfaces and streams, flooding and dusty conditions. Requirements shall be established by this chapter and the Urbana, Iowa Design Standards in an effort to control erosion and sediment transport from development sites. Except as exempted in this chapter, a soil erosion and sediment control plan will be required as part of any proposed land disturbing activity. No land shall be disturbed without approval of an erosion and sediment control plan unless exempted in this chapter.

**167.02 DEFINITIONS.** As used in this chapter, the terms listed below have the meanings indicated.

1. “Certified professional erosion and sediment control specialist” means a specialist in the area of soil erosion and sediment control certified by the Soil and Water Conservation Society and the International Erosion Control Association.
2. “City Engineer” means the City Engineer, consulting engineer, or other agent of the City designated to fulfill the function of City Engineer with respect to this chapter.
3. “Civil engineer” means a professional licensed in the State of Iowa to practice in the field of civil works.
4. “Clearing” means the act of removing unwanted growth, in the form of trees, wood, shrubs, brush, or items from a lot, tract, or parcel of land.
5. “Design professional” means a civil engineer, landscape architect, or certified professional erosion and sediment control specialist.
6. “Development” means the improvement of land from its existing state.

## CHAPTER 167 EROSION AND SEDIMENT CONTROL FOR DEVELOPMENT SITES

7. “Drainageway” means a natural or manmade channel that collects and intermittently or continuously conveys storm water runoff.
8. “Erosion” means the degradation of the land surface by running water, wind, ice, gravity, or other geological, natural agents, or manmade agents.
9. “Erosion and sediment control plan” means a plan of a lot, tract, or parcel of land upon which land disturbing activities are proposed to take place. This plan will indicate materials, construction phasing, grading activities, and methods used to control erosion and sediment transport and shall be certified by a design professional.
10. “Land disturbing activity” means the act of clearing, grading, excavating, filling or other construction activities which involve the removal of protective cover and established vegetation on a lot, tract, or parcel of land.
11. “Landscape architect” means a professional landscape architect, registered in the State of Iowa to practice in the field of landscape architecture.
12. “Sediment” means solid material, both mineral and organic, that is in suspension, has been transported, or has been moved from its origin by air, water, gravity, or ice and has been deposited by the action of water or wind.
13. “Site” means a lot, parcel, or tract of land, or portion thereof, where land disturbing activities take place, and may or may not require additional permits.

### **167.03 EROSION AND SEDIMENT CONTROL PLAN REQUIRED.**

1. The following activities are exempt from the requirements of this chapter:
  - A. Agricultural use of land.
  - B. Gardening activities.
  - C. Cemetery graves.
  - D. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.
2. Except as provided in this chapter, no person shall engage in land disturbing activities upon any site located within the City unless an erosion and sediment control plan has been approved by the City Engineer.

3. Development sites shall fall into one of two categories as determined by the City Engineer upon review of the area of disturbance for the project:

A. Sites with a disturbed area less than one acre (43,560 square feet) shall not require review and approval of an erosion and sediment control plan. However, the property owners of a site shall plan and implement erosion control measures to contain sediment on site. The City Engineer may require submittal and approval of an erosion and sediment control plan for sites with a disturbed area less than one acre in cases warranted by site conditions.

B. Sites with a disturbed area greater than or equal to one acre (43,560 square feet) shall require review and approval of an erosion and sediment control plan, certified by an appropriate design professional.

4. All erosion and sediment control plans shall be reviewed and approved by the City Engineer prior to commencing land disturbing activities.

5. The property owner shall allow access by the City to the site for the purposes of plan review and observations during land disturbing activities.

6. The property owner shall give the City Engineer written notice of completion of erosion and sediment control practices within 30 days after completion.

**167.04 REVIEW AND APPROVAL PROCEDURE.** To obtain approval of an erosion and sediment control plan, the applicant shall submit an erosion and sediment control plan for the site to the City Engineer for review and approval as follows:

1. The City Engineer shall review the submittal. Following the review, the City Engineer shall return comments to the design professional.

2. Following receipt of comment from the City Engineer, the applicant shall provide a revised submittal to the City Engineer in accordance with any requested revisions.

3. If the submittal is complete, and meets the requirements as set forth herein and the Urbana, Iowa Design Standards, the City Engineer shall approve the plan.

**167.05 LAND DISTURBING ACTIVITIES REQUIREMENTS.** Land disturbing activities shall be conducted in compliance with the approved erosion and sediment control plan for the site. The City may inspect sites to determine compliance with these regulations. Upon determination that a site is not in compliance with these regulations, the City Engineer may issue a compliance order to the property owner. The order shall describe the problem and specify a date whereby the work must be completed, and indicate the penalties to be assessed for further noncompliance.

**167.06 FEES ESTABLISHED.** The City Council may establish fees by resolution for the review and processing of documents necessitated by this chapter. If and when such fees are established, a submittal shall not be considered unless the appropriate fee has been submitted to the City Engineer.

**167.07 PENALTIES.** Any person who engages in land disturbing activities upon any site within the area of jurisdiction of this chapter before meeting the requirements of this chapter shall be subject to one or more of the following

1. The actual cost to the City for removing sediment from public facilities as determined by the City Engineer.
2. No foundation permits or building permits for the site shall be issued until the violations are corrected. Current foundation permits or building permits for the site may be rescinded.
3. No permanent certificates of occupancy shall be issued for property until the violations are corrected. An existing certificate of occupancy may be rescinded.

Nothing contained herein shall limit the right of the City to any other remedies available to the City for the enforcement of this chapter, including the use of municipal infractions. Enforcement of this chapter shall be the responsibility of the City.

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## CHAPTER 168

# STORM WATER MANAGEMENT

168.01 Purpose  
168.02 Definitions  
168.03 Exemptions  
168.04 Application

168.05 Storm Water Management Requirements  
168.06 Fees Established  
168.07 Penalties

**168.01 PURPOSE.** It is the purpose of this chapter to establish policies to comprehensively manage and control storm water runoff in a safe and economical manner in developing areas for the purpose of promoting the health, safety and general welfare of the population, and for the protection of property. It is also the intent of this chapter to provide for storm water storage within the City where detention/retention basin facilities have been determined to be beneficial in reducing the peak runoff to downstream areas. Requirements shall be established by this chapter and the Urbana, Iowa Design Standards in an effort to manage storm water runoff from development sites. Except as exempted in this chapter, a storm water management plan, as set forth herein, will be required as part of proposed development activities.

**168.02 DEFINITIONS.** As used in this chapter, the terms listed below 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. “City Engineer” means the City Engineer, consulting engineer, or other agent of the City designated to fulfill the function of City Engineer with respect to this chapter.
3. “Civil engineer” means a professional engineer licensed in the state of Iowa to practice in the field of civil works.
4. “Control structure” means part of a storm water management facility designed to regulate the storm water runoff release rate.
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. “Development” means the improvement of land from its existing state.
7. “Developed condition” means hydraulic and hydrologic site characteristics that occur upon completion of a development.
8. “Drainage area” means an area of land contributing to storm water runoff.
9. “Overflow system” means the path taken by storm water runoff as a result of flows exceeding the capacity of the underground drainage system. This path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.
10. “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.
11. “Retention basin” means a storm water management facility designed, constructed or modified to provide long-term storage of storm water runoff, which reduces the peak outflow during a specific rainfall event. This facility is typically designed to maintain a permanent water level.
12. “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.
13. “Storm sewer system” means facilities for the conveyance of storm water runoff, a series of pipes and structures to accommodate frequent storm events. These facilities usually include conduits, street gutters, and swales.
14. “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.
15. “Storm water runoff” means the flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.
16. “Storm water runoff release rate” means the amount of storm water runoff discharged to downstream areas.
17. “Water quality storm” means the one-year storm event.

**168.03 EXEMPTIONS.** The following are exempt from the requirements of this chapter:

1. Agricultural use of land.
2. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.
3. Land within flood plain areas as designated in the Federal Emergency Management Agency maps in effect at the time of development.
4. Areas deemed appropriate by the City Engineer.

**168.04 APPLICATION.**

1. The requirements of this chapter shall apply to all development within the City.
2. Storm water detention basins intended to serve single-family residential development shall be publicly owned and maintained, unless approved otherwise by the City Engineer.
3. Non-single-family lots with an overall area of one acre or more shall provide on-site storm water detention. Non-single-family lots with an overall area less than one acre shall comply with one of the following, as approved by the City Engineer:
  - A. Privately owned, on-site detention basin.
  - B. Tributary to a privately or publicly owned detention basin.

In some watersheds, on-site storm water detention may be required, at the discretion of the City Engineer, for non-single-family lots with an overall area of less than one acre.

4. At the discretion of the City Engineer, if a detention basin serves non-single-family zoning districts and can provide storm water attenuation for a substantial drainage area, the facilities may be publicly owned and maintained.

**168.05 STORM WATER MANAGEMENT REQUIREMENTS.**

1. For purposes of obtaining approval of a storm water management plan, a site plan shall be submitted to the City Engineer for review and approval.

2. Construction of storm water management facilities shall be in conformance with the approved storm water management plan for the site.

3. The storm water management plan, including on-site storm water detention facilities, shall be reviewed and approved by the City Engineer prior to the issuance of foundation permits, or building permits for the site. The improvements shall be constructed prior to the issuance of final certificates of occupancy. The requirements of this paragraph may be deferred at the discretion of the City Engineer. Supporting information and calculations shall accompany the storm water management plan, including, but not limited to:

- A. Design storms and peak discharge.
- B. Hydraulic capacity of streets, inlets, storm sewers, and other open channels.
- C. Detention basin design.
- D. Outlet design.
- E. Downstream impacts, erosion, sedimentation, and scour analysis.

4. Runoff Release Requirements.

A. For rainfall events having an expected return frequency of between five (5) years and 100 years, inclusive, the rate of runoff from the developed site shall not exceed the existing, pre-developed peak runoff from a 5-year frequency storm of the same duration unless if limited by a downstream conveyance.

B. Runoff from the water quality storm (1-year event) must be stored in a detention basin for a minimum of 24 hours before release.

5. For sites on which privately owned and maintained storm water detention and/or conveyance facilities are located, the property owner shall be responsible for the following:

- A. All future grading, repairs, and maintenance.
- B. Maintenance of the minimum storm water detention volume, as approved by the City Engineer.
- C. Maintenance of the detention basin control structures and discharge pipe(s) to insure the maximum theoretical storm water release rate, as approved by the City Engineer, is not increased.

6. 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 otherwise by the City Engineer.

7. The property owner shall dedicate to the City, by instrument or final platting, 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 site approval.

8. The City Engineer may inspect the sites at any time to determine compliance with these regulations. If deemed necessary by the City Engineer, the property owner shall provide certification by a civil engineer verifying the minimum storm water detention volume and the maximum theoretical storm water release rate, as required in subsection 4 of this section, are in conformance with the approved design.

9. Upon determination that a site is not in compliance with these regulations, the City Engineer may issue an order to comply. The order shall describe the problem and specify a date whereby the work must be completed, and indicate the penalties to be assessed for further noncompliance.

10. Except as provided in this chapter, no person shall engage in construction of storm water management facilities, unless a storm water management plan has been reviewed and approved by the City Engineer.

**168.06 FEES ESTABLISHED.** The City Council may establish fees by resolution for the review and processing of documents necessitated by this chapter. If and when such fees are established, a submittal shall not be considered unless the appropriate fee has been submitted to the City Engineer.

**168.07 PENALTIES.** Any person who shall engage in development of a site within the area of jurisdiction of this chapter before meeting the requirements of this chapter, shall be subject to one or more of the following:

1. No foundation permits or building permits shall be issued for the property in question until the violations are corrected.
2. No permanent certificates of occupancy shall be issued for property in question until the violations are corrected. An existing certificate of occupancy may be rescinded.

Nothing contained herein shall limit the right of the City to any other remedies available to the City for the enforcement of this chapter, including the use of

municipal infractions. Enforcement of this section shall be the responsibility of the City.

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## CHAPTER 169

# STANDARDS FOR PUBLIC IMPROVEMENTS – TECHNICAL SPECIFICATIONS

**169.01 Purpose**  
**169.02 Adoption of Standards**  
**169.03 Modifications**

**169.04 Fees Established**  
**169.05 Penalties**

**169.01 PURPOSE.** The purpose of this chapter is to protect public health, property, welfare and safety by establishing reasonable minimum requirements for various types of construction; by establishing procedures to be followed for activities related to new development and for maintenance, repair, demolition and/or replacement of existing installations and facilities; and by establishing minimum standards for the materials used in various specific types of projects.

**169.02 ADOPTION OF STANDARDS.** Pursuant to published notice and public hearing, the Cedar Rapids Metropolitan Area Standard Specifications for Public Improvements, as amended by the Urbana Planning and Zoning Commission and by the City Engineer and approved by the Urbana City Council, are hereby adopted by reference, and shall include the following sections:

- 00700 General Conditions
- 01025 Measurement and Payment
- 01100 Construction Services
- 01110 Testing and Quality Control
- 01200 Traffic Control
- 01300 Erosion and Dust Control
- 01400 Clearing and Demolition
- 02000 Grading and Excavation
- 02100 Subgrade and Sub-base Preparation
- 02200 Pipe Trench Work

- 02250 Boring and Jacking, and Casing Pipe
- 02300 Sanitary Sewers
- 02310 Sewer Liners
- 02400 Storm Sewers
- 02600 Miscellaneous Sewer and Water Construction
- 02700 Portland Cement Concrete Pavement
- 02750 Hot Mix Asphalt Pavement
- 02800 Miscellaneous Pavement Construction
- 02850 Pavement Markings
- 02900 Seeding
- 02905 Sodding
- 02910 Plants
- 02920 Segmental Concrete Block Retaining Wall
- 02950 Fence
- 16010 Electrical General Provisions
- 16570 Traffic Signal Equipment

**169.03 MODIFICATIONS.** The Cedar Rapids Municipal Area Standard Specifications for Public Improvements, are amended by council as follows:

Section 01110-0 Testing and Quality Control

Subsection 4.02: **Delete B Substitute B.** The Owner requires that all new sewer lines be televised as part of the testing and as-built process.

Subsection 4.02: **Delete K**

Section 02300 Sanitary Sewers

Subsection 1.06: **Add** F. VCP pipe shall not be used in Urbana.

Subsection 2.01. C.1.: **Add** “or PVC SDR 26 equal or exceed resin quality of cell class 12454B per ASTM D1784, unless pipe installation warrants additional strength.”

Subsection 2.01: **Delete** F. ESCVP pipe shall not be used in Urbana.

Subsection 2.02: **Delete** B. Cast Iron Soil Pipe (CISP) shall not be used in Urbana.

Subsection 2.02: **Delete** C. ESCVP shall not be used in Urbana.

Subsection 2.02: **Delete** E.6. VCP (clay pipe) shall not be used in Urbana.

#### Section 02400 Storm Sewers

Subsection 2.01: **Delete** D. HDPE shall not be used in Urbana.

#### Section 02500 Water Mains

Subsection 2.07: **Delete** B. 2. and **Substitute with** “B. 2. Tracer wire #12 solid single copper conductor

a. Insulation Material: Linear low-density polyethylene (LLDPE) installation suitable for direct burial applications.

b. Insulation thickness: 0.045 inches, minimum.”

Subsection 2.09: Valves shall open when turned left.

Subsection 3.06: **Delete** E. and **Substitute with** “Bring two wires to the surface at each hydrant location and terminate with a tracer wire station.”

#### Appendix C:

Section B.01: **Add** D. Urbana approved manufacturers and model numbers:

1. Mueller Super Centurion 250, Model A-423
2. Clow Medallion (equivalent to Model A-423 above)

Section B.02: Same as Hiawatha.

Section 02750 Hot Mix Asphalt Pavement

Modify Section. All new streets will be Portland Cement Concrete Pavement.

Will only apply to applicable locations such as “overlay”, “patching”, and “driveway” installations.

**169.04 FEES ESTABLISHED.** The City Council may establish fees by resolution for the review and processing of documents necessitated by this chapter. If and when such fees are established a submittal shall not be considered unless the appropriate fee has been submitted to the City Engineer.

**169.05 PENALTIES.** Any person who shall engage in any activities upon any site within the area of jurisdiction of this chapter before meeting the requirements of this chapter shall be subject to one or more of the following:

1. The actual cost to the City for correction, repair, replacement, reconstruction or removal from public facilities any construction performed or any installation made in violation of this chapter as determined by the City Engineer.
2. No foundation permits or building permits for the Site shall be issued until the violations are corrected. Current foundation permits or building permits for the site may be rescinded.
3. No permanent certificates of occupancy shall be issued for property until the violations are corrected. An existing certificate of occupancy may be rescinded.

Nothing contained herein shall limit the right of the City to any other remedies available to the City for the enforcement of this chapter, including the use of municipal infractions. Enforcement of this section shall be the responsibility of the City.

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**CHAPTER 170****STORM WATER DRAINAGE UTILITY**

170.01 Purpose

170.02 Definitions

170.03 Storm Water Drainage System Utility Established

170.04 Rates

170.05 Payment of Bills

170.06 Lien for Nonpayment

**170.01 PURPOSE.** The purpose of this chapter is to establish a Storm Water Drainage Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

**170.02 DEFINITIONS.** For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. **“Connection”** means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes the creation or maintenance of impervious surface(s) that causes or may cause an increase in the quantity, or decrease in quality, or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water drainage system.
2. **“Storm and Surface Water Drainage System”** means any combination of publicly owned storm and surface water quantity and quality facilities, pumping or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers associated therewith, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water within the City, to which sanitary sewage flows are not intentionally admitted.

3. **“Unit”** means each household, place of commerce, education, government, religion, or industry, whether in a single building on a single lot, or in a multiple-use building on a single lot or multiple lot complexes. Each unit shall be charged individually, but where the complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex.

4. **“User”** means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. But where a complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex. If the property is not occupied, the person who has the right to occupy it shall be deemed the user. If it is not possible, after reasonable inquiry, to determine the rightful occupant of the occupied property, the owner(s), individually or severally, shall be deemed to be the user(s). The City of Urbana, as the owner of public properties within the City, shall be exempt from the provisions of this chapter.

### **170.03 STORM WATER DRAINAGE UTILITY ESTABLISHED.**

Pursuant to the authority of Section 384.84(5) of the Code of Iowa, as most recently amended, the entire territorial limits of the City is hereby declared to fall within the jurisdiction of the Storm Water Drainage Utility for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute the area covered by this Storm Water Drainage Utility.

*(Code of Iowa, Sec. 384.84(5))*

**170.04 RATES.** Each user shall pay for storm and surface water drainage service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each “Unit”. The rate/charges shall be billed as part of the User’s combined service account. (*Combined Service Account* meaning a customer service account for the provision of two or more utility services.) The City may adopt rules, charges, rates, and fees for the use of the City’s storm and surface water system and for services provided by the City related thereto. Such rules may include delinquency fees, interest charges and/or penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City’s Storm Water

Management Facilities/Storm and Surface Water Drainage System(s), the costs of bond repayment, regulation, administration, and the services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of one dollar (\$1.00) on every residential "unit", and two dollars (\$2.00) on every other, non-residential "unit". (SEE DEFINITION OF UNIT SET FORTH PREVIOUSLY HEREIN.)

**170.05 PAYMENT OF BILLS.** All Storm Water Drainage Utility charges shall be 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. All City services 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 Sections 92.07 and 92.08 relating to lien exemptions and lien notices shall also apply in the event of a delinquent account.

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

**170.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such 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[3a])*

**170.07 USE OF GENERATED REVENUES.** The City shall hold all funds generated from the enactment of this Ordinance in one fund to be used for the management, construction and/or maintenance of Municipal Storm Water management systems.

## CHAPTER 171

### FLOODPLAIN MANAGEMENT

171.01	Statutory Authority, Findings of Fact and Purpose	171.05	Administration
171.02	General Provisions	171.06	Non-Conforming Uses
171.03	Establishment of Floodplain (Overlay) District	171.07	Penalties for Violations
171.04	Standards for Floodplain (Overlay) District	171.08	Amendments
		171.09	Definitions

#### **171.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.**

A. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

##### B. Findings of Fact

1. The flood hazard areas of the City of Urbana 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.

2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

##### C. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Urbana 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 171.01 (B)(1) of this Ordinance with provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
2. 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.
3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

## **171.02 GENERAL PROVISIONS.**

### **A. Lands to Which Ordinance Apply**

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Urbana which are located within the boundaries of the Floodplain (Overlay) District as established in 171.03.

### **B. Rules for Interpretation of Floodplain (Overlay) District**

The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Clerk shall make the necessary interpretation. The BOARD OF APPEALS shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Clerk in the enforcement or administration of this Ordinance.

### **C. 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 Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

### **D. Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

#### E. Interpretation

In their interpretation and application, the provisions of this Ordinance 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.

#### F. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Urbana or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

#### G. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

### **171.03 ESTABLISHMENT OF FLOODPLAIN (OVERLAY) DISTRICT.**

The areas within the jurisdiction of the City of Urbana having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Benton County and Incorporated Areas, City of Urbana, Panel (PANEL NUMBER), dated (MONTH DAY, YEAR).

### **171.04 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT.**

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 on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All development within the Floodplain (Overlay) District shall:

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. 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 Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

C. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand

the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 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 North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

**D. All new and substantially improved structures:**

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

3. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**E. Factory-built homes:**

1. 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 (1) foot above the 100-year flood level.

2. 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.

**F. Utility and Sanitary Systems:**

1. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

2. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

3. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

4. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

**G. Storage of materials and equipment** that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. 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 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

J. Subdivisions (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 Ordinance. 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 (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

#### K. Accessory Structures

1. 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.

- a. The structure shall not be used for human habitation.
- b. The structure shall be designed to have low flood damage potential.
- c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- d. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

2. 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.

L. Recreational Vehicles

1. Recreational vehicles are exempt from the requirements of 171.04(E) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 171.04(E) of this Ordinance regarding anchoring and elevation of factory-built homes.

M. 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.

**171.05 ADMINISTRATION.**

A. Appointment, Duties and Responsibilities of Zoning Administrator

1. The City Clerk is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

2. Duties of the Administrator shall include, but not necessarily be limited to the following:

a. Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

- b. Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
- c. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the Floodplain (Overlay) District.
- d. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.
- e. 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.
- f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

#### **B. Floodplain Development Permit**

1. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made 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.
2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
  - a. Description of the work to be covered by the permit for which application is to be made.
  - b. 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.

- c. Indication of the use or occupancy for which the proposed work is intended.
- d. Elevation of the 100-year flood.
- e. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
- f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
- g. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Board of Adjustment.

4. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. 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, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

### C. Variance

1. The City BOARD OF APPEALS may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

b. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, 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 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

2. Factors Upon Which the Decision of the BOARD OF APPEALS Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments.

b. The danger that materials may be swept on to other land or downstream to the injury of others.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services provided by the proposed facility to the City.

f. The requirements of the facility for a floodplain location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

m. Such other factors which are relevant to the purpose of this Ordinance.

3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

a. Modification of waste disposal and water supply facilities.

b. Limitation of periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

e. Floodproofing measures.

## **171.06 NON-CONFORMING USES.**

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in

conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. 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.

#### **171.07 PENALTIES FOR VIOLATIONS.**

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 FIVE HUNDRED or imprisoned for not more than 30 THIRTY days. Nothing herein contained prevent the City of Urbana from taking such other lawful action as is necessary to prevent or remedy violation.

#### **171.08 AMENDMENTS.**

The regulations and standards set forth in this Ordinance 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.

**171.09 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

**BASE FLOOD** - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

**BASEMENT** - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

**EXISTING CONSTRUCTION** - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

**EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

**EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** - 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).

**FACTORY-BUILT HOME** - 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 Ordinance 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.

**FACTORY-BUILT HOME PARK** - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

**FLOOD** - 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.

**FLOOD ELEVATION** - 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.

**FLOOD INSURANCE RATE MAP (FIRM)** - 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.

**FLOODPLAIN** - Any land area susceptible to being inundated by water as a result of a flood.

**FLOODPLAIN MANAGEMENT** - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplain s, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

**FLOODPROOFING** - 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.

**FLOODWAY** - The channel of a river or stream and those portions of the floodplain s 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 (1) foot.

**FLOODWAY FRINGE** - Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

**HISTORIC STRUCTURE** - 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 by either (i) 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.

**LOWEST FLOOR** - 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 171.04 (D) (1) of this Ordinance 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 (1) 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.

**MINOR PROJECTS** - Small development activities (except for filling, grading and excavating) valued at less than \$500.**NEW CONSTRUCTION** - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or

after the effective date of the first floodplain management regulations adopted by the community.

**NEW FACTORY-BUILT HOME PARK OR SUBDIVISION** - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the community.

**ONE HUNDRED (100) YEAR FLOOD** - A flood, the magnitude of which has a one (1) 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 one hundred (100) years.

**RECREATIONAL VEHICLE** - 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 temporary living quarters for recreational, camping, travel, or seasonal use.

**ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES** – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;
- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

**SPECIAL FLOOD HAZARD AREA** - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

**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.

**STRUCTURE** - 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.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*(OPTIONAL LANGUAGE: Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.)*

**SUBSTANTIAL IMPROVEMENT** - Any improvement to a structure which satisfies either of the following criteria:

1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the

structure either (i) before the "start of construction" of the improvement , or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

**VARIANCE** - A grant of relief by a community from the terms of the floodplain management regulations.

**VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.



# CODE OF ORDINANCES

## CITY OF URBANA, IOWA

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